THE BOMBAY VILLAGE PANCHAYATS ACT, 1933.

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SCHEDULE.

BOMBAY ACT No. VI OF 1933.[1]

[THE BOMBAY VILLAGE PANCHAYATS ACT, 1933.]

[*12th June 1933.*]

Amended by Bom. 34 of 1935.
" " " 24 of 1936.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 18 of 1939.
" " " 2 of 1945*.
" " " 24 of 1946.
" " " 60 of 1947.
" " " 4 of 1949.

An Act to amend and consolidate the law relating to the constitution of Village Panchayats.

WHEREAS it is expedient to amend and consolidate the law relating to the constitution of village panchayats, with a view to fostering their growth and of increasing their utility in the further development of local self-government in rural areas and in the administration of civil and criminal justice; and whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act of the Governor required under section 80C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows:—

5 & 6 Geo. V, c. 61.

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Bombay Village Panchayats Act, 1933. Short title.

2. It extends to the whole of the Presidency of Bombay, except the City of Bombay. Extent.

3. In this Act, unless there is anything repugnant in the subject or context— Definitions.

[2](*1*) " backward tribe " means a tribe specified in Part II of the Thirteenth Schedule to the Government of India (Provincial Legislative Assemblies) Order, 1936];

[3][(*1A*)] " by-laws " means by-laws made by the district local board under section 109;

(*2*) " case " means, with reference to any judicial proceedings, a criminal proceeding in respect of any offence triable by a [4][nyaya panchayat];

(*3*) " chairman " means the chairman of a [4][nyaya panchayat] appointed under [5][section 37A];

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1932, Pt. V, pp. 200-211, for Report of the Select Committee, *see ibid.*, 1933, Pt. V, pp. 1-14 and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1932, Vol. XXXV, 1933, Vol. XXXVII.

[2] Clause (*1*) was inserted by Bom. 18 of 1939, sec. 2 (*i*).

[3] This clause was renumbered as clause (*1A*), *ibid.*, sec. 2 (*ii*).

[4] These words were substituted for the words " village bench " or " bench " by Bom. 60 of 1947, s. 25.

[5] The word, figures and letter " section 37A " were substituted for the words, brackets and figures " sub-section (*4*) of section 37 " by Bom. 18 of 1939, section 2 (*iii*).

* This Act was re-enacted with modifications by Bom. 60 of 1947, s. 2.

(*4*) " district local board ", used with reference to any local area, means a district local board established under the Bombay Local Boards Act, 1923, for the district in which such local area is situated; Bom. VI of 1923.

[1][(*5*) " harijan " means a person belonging to any of the scheduled castes as defined in the Government of India (Scheduled Castes) Order, 1936];

(*6*) " offence " means any act or omission made punishable by any law for the time being in force;

(*7*) " panchayat " means a panchayat established under this Act;

(*8*) " prescribed " means prescribed by rules;

(*9*) " revenue village " means any local area which is recognised as a village in the revenue accounts;

(*10*) " rules " means rules made by [2][the Provincial Government] under section 108;

(*11*) " sarpanch " means a sarpanch elected under section 14;

(*12*) " school-board " means a school-board constituted under section 3 of the Bombay Primary Education Act, 1923; Bom. IV of 1923.

(*13*) " suit " means a civil suit triable by a [3][nyaya panchayat] under this Act;

(*14*) " tax " means a tax, cess, rate, or other impost leviable under this Act;

(*15*) the expression " the term of a panchayat " means the period for which the elected members thereof shall hold office under section 11;

(*16*) " village " means any local area declared to be a village under section 4;

(*17*) " [3][nyaya panchayat]" means a [3][nyaya panchayat] constituted under [4]* * * * section 37 for the purpose of the trial of suits and cases.

CHAPTER II.

ESTABLISHMENT AND CONSTITUTION OF PANCHAYATS.

Declaration of village.

[5][**4.** (*1*) Whenever the Provincial Government after making such inquiry as may be prescribed is satisfied that any local area comprising a revenue village or a group of revenue villages or hamlets forming part of a revenue village has a population of not less than 2,000, it shall, by notification in *Official Gazette*, declare such local area to be a village:

Provided that the Provincial Government may, by notification in the *Official Gazette*, direct that any local area having a population of less than 2,000 shall be declared a village under this section.

(*2*) The Provincial Government may after consultation with the district local board by like notification at any time—

(*a*) include within any village or exclude from any village any local area or otherwise alter the limits of any village, or

(*b*) declare that any local area shall cease to be a village.]

Establishment of panchayats.

5. In every village declared to be such under section 4, there shall be a panchayat.

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[1] Clause (*5*) was substituted for the original by Bom. 18 of 1939, sec. 2 (*iv*).

[2] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[3] These words were substituted for the words " village bench " or " bench " by Bom. 60 of 1947, s. 25.

[4] The words, brackets and figure " sub-section (*1*) of " were deleted by Bom. 18 of 1939, sec. 2 (*v*).

[5] Section 4 was substituted for the original by Bom. 18 of 1939, s. 3.

[1][6. (*1*) A panchayat shall consist of [2]* * * * such number of elected members, not being less than seven or more than [3][fifteen] in number, as the Collector after consultation with the district local board may determine. Constitution of panchayats.

In any such panchayat such number of seats shall be reserved for the representatives of women, Muhammadans, Harijans or backward tribes as may be prescribed by the Provincial Government under clause (*b*) of sub-section (*1*) of section 108 :

Provided that no such seat shall be reserved for the representatives of Muhammadans, Harijans or backward tribes in any panchayat unless the Provincial Government is of the opinion that the reservation of such seats is necessary having regard to the population of such community, class or tribe in the village.

[4]* * * * *

(*2*) Where the Collector after consultation with the district local board determines that the number of elected members of a panchayat shall exceed seven, failure to elect more than seven such members shall not affect the constitution of a panchayat.

(*3*) If for any reason the election does not result in the return of the required number of qualified persons willing to take office, [5][the Standing Committee of the district local board] shall, within four weeks from the date on which the names of elected members are published [6][in the prescribed manner by the Collector], appoint the required number of persons, being persons who would have been qualified to be elected. If the [5][the Standing Committee of the district local board] fails to make all or any of such appointments, within the time specified, the Collector shall make such appointments ; and the persons so appointed shall be deemed to have been duly elected under sub-section (*1*).]

7. (*1*) The election of [7]* members to a panchayat shall be held on such date as the Collector may appoint in this behalf. Election.

(*2*) All adult persons who ordinarily reside in the village and all adult persons who own in the village a house assessed to house tax or land assessed to cess under section 93 of the Bombay Local Boards Act, 1923, shall be entitled to vote at the election.

Bom. VI of 1923.

Such election shall be conducted in the prescribed manner. [8]* * *

(*3*) The Collector shall, after such enquiry as he considers necessary, decide in any case of dispute or doubt, who is qualified to vote at such election.

8. No person may be [9]* a member of a panchayat or continue as such who— Disqualifications.

(*a*) is under 21 years of age, or

(*b*) does not ordinarily reside in the village, or

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[1] Section 6 was substituted for the original by Bom. 18 of 1939, s. 4.

[2] Clause (*i*) and (*ii*) and the figures (*iii*) of clause (*iii*) which were inserted by Bom. 2 of 1945, s. 2 (*i*) were deleted by Bom. 60 of 1947, s. 2.

[3] This word was substituted for the word " eleven " by Bom. 60 of 1947, s. 4(*a*).

[4] Sub-section (*1A*) which was inserted by Bom. 2 of 1945, s. 2 (*2*), was deleted by Bom. 60 of 1947, s. 2.

[5] These words were substituted for the words district local board ", *ibid.*, s. 4 (*b*).

[6] These words were substituted for the words and figure " in the *Official Gazette* under section 7 ", by Bom. 2 of 1945, s. 2(*3*), read with Bom. 60 of 1947, s. 2.

[7] The word " elected " was deleted by Bom. 18 of 1939, sec. 5 (*i*).

[8] The words " and the names of members elected shall be published by the Collector in the *Official Gazette* " were deleted by Bom. 2 of 1945, sec. 3, read with Bom. 60 of 1947, s. 2.

[9] The words " elected or nominated " were deleted or nominated " were deleted by Bom. 18 of 1939, sec. 6 (*i*).

(*c*) has been sentenced by a criminal court to imprisonment or whipping for an offence [1][which involves moral turpitude and which is] punishable with imprisonment for a term exceeding six months, or to transportation, [2]* such sentence [3]* * not having been subsequently reversed or remitted, so long as such sentence has not expired [4]** unless he shall have by an order which [5][the Provincial Government] is hereby empowered to make, been relieved from the disqualification arising on account of such sentence [3]* * * , or

(*d*) has been adjudged by a competent court to be of unsound mind, or

(*e*) has been adjudicated an insolvent and has not obtained his discharge, or

(*f*) has been removed from office under section 21 and five years have not elapsed from the date of such removal, unless he shall have, by an order which the district local board after the expiry of one year from the date of such removal is hereby empowered to make, been relieved from the disqualification arising on account of such removal from office, or

(*g*) holds any salaried office or place of profit in the gift or disposal of the panchayat, while holding such office or place, or

(*h*) has directly or indirectly any share or interest in any contract with, by or on behalf of the panchayat while owning such share or interest, [6][or

(*i*) fails to pay any tax or fee due to the panchayat within three months from the date on or before which the amount of such tax or fee is required to be paid in the bill presented to the person under sub-section (*1*) of section 91, or

(*j*) is a servant of the Crown or a servant of any local authority ;]

[7]* * * *

Explanation [8][*1*].—A person shall not, by reason of being a shareholder in, or a member of, any incorporated or registered company or a co-operative society registered under the [9]Co-operative Societies Act, 1912, or the Bombay Co-operative Societies Act, 1925, be held to be interested in any contract entered into between the company or co-operative society and the panchayat. II of 1912. Bom. VII of 1925.

[10][*Explanation 2.*—For the purposes of clause (*j*) of this section, an officiating revenue or [11][police patel or a revenue or police patel who is an officiator under the Bombay Hereditary Offices Act, shall be deemed to be a servant of the Crown but] an inferior village servant shall not be deemed to be a servant of the Crown.] Bom. III of 1874.

Collector to declare election invalid.

9. (*1*) If the Collector, after such enquiry as he considers necessary, is satisfied that any member has been elected in contravention of the provisions of section 8, or that any corrupt practice or irregularity has been committed in connection with such election, and that such illegality, corrupt practice or irregularity has materially affected the result of the election, the Collector may declare the election of such member to be invalid, and such declaration shall be final :

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[1] These words were inserted by Bom. 18 of 1939, sec. 6 (*ii*).

[2] The words and figures " or has been ordered to furnish security for good behaviour under the Code of Criminal Procedure, 1898 ", were deleted, *ibid.*

[3] The words " or order " were deleted, *ibid.*

[4] The words " or so long as such order is in force " were deleted, *ibid.*

[5] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[6] The word " or " and clauses (*i*) and (*j*) were inserted by Bom. 18 of 1939, sec. 6 (*iii*).

[7] The proviso was deleted, *ibid.*, sec.6 (*iv*).

[8] This Explanation was numbered as Explanation 1 by Bom. 2 of 1945, sec. 4, read with Bom. 60 of 1947, s. 2.

[9] *See* Central Acts.

[10] This Explanation was inserted by Bom. 2 of 1948, read with Bom. 60 of 1947, s. 2.

[11] These words were substituted for the words " police patel or " by Bom. 60 of 1947, s. 2(*ii*).

Provided that when the Collector is satisfied that a corrupt practice has been committed by a member, the Collector shall, whether such corrupt practice has or has not materially affected the result of the election, declare the election of such member to be invalid and such declaration shall be final.

(*2*) A person shall be deemed to have committed a corrupt practice—

(*a*) who, with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or holds out any promise of individual profit, or holds out any threat of injury, to any person, or

(*b*) who gives, procures, or abets the giving of a vote in the name of a voter who is not the person giving such vote.

Explanation 1.—A corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

Explanation 2.—"A promise of individual profit"—

(*i*) does not include a promise to vote for or against any particular measure which may come before a panchayat for consideration, but

(*ii*) subject thereto includes a promise for the benefit of the person himself or any person in whom he is interested.

Declaration if disqualification is incurred.

[1][**9A.** If at any time the Collector after such inquiry as he considers necessary and after giving an opportunity to the member concerned to be heard is satisfied that—

(*a*) a member appointed under sub-section (*3*) of section 6 was subject to any of the disqualifications mentioned in section 8 at the time of his appointment, or

(*b*) any member whether elected or appointed has incurred any of the disqualifications mentioned in section 8 after his election or appointment, as the case may be,

the Collector shall declare the appointment of such member invalid or that such member shall not continue to be the member of the panchayat, as the case may be.

Such declaration shall be final.]

Fresh election or appointment, if election or appointment is invalid.

10. If the Collector declares the election [2][or appointment of any member invalid or that any member shall not continue to be the member of a panchayat, under section 9 or 9A, as the case may be, a fresh election or appointment] for the vacancy so caused shall be held in accordance with the provisions of this Act.

Term of office of members.

11. (*1*) The [3]* members of a panchayat shall, save as otherwise provided in this Act, hold office for a term of three years.

(*2*) The Collector may, by order in writing, for reasons recorded therein, extend the said term for a period not exceeding [4][in the aggregate five years]. Any such order shall be notified in such manner as the Collector may approve.

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[1] Section 9A was inserted by Bom. 18 of 1939, sec. 7.

[2] These words, figures and letter were substituted for the words and figure "of any member invalid under section 9, a fresh election", *ibid.*, sec. 8.

[3] The word "elected" was deleted, *ibid.*, sec. 9.

[4] These words were substituted for "one year" by Bom. 4 of 1949, s. 2.

Commencement of term of office.

12. [1][(*1*) The term of office of the members elected at a general election or appointed under sub-section (*3*) of section 6 shall be deemed to commence on the date of the first meeting of the panchayat. The first meeting of the panchayat shall be held on a day fixed by the president of the district local board within four weeks from the date on which the names of elected members are published under section [2][*6*]. If the president fails to fix such date within the time so specified the Collector shall fix such date.]

(*2*) The term of office of the outgoing members shall be deemed to extend to and expire with the day before such meeting.

[3]* * * * * *

[3]* * * * * *

Resignation of members.

13. Any [4]* member may resign his office by giving notice in writing to that effect to the sarpanch and such resignation shall take effect from the date of its receipt by the sarpanch.

Election of sarpanch and deputy sarpanch.

14. [5]*Every panchayat shall be presided over by a sarpanch who shall be elected by the members from among their own number. The panchayat shall also elect one of its members to be deputy sarpanch.

[5] * * * * * *

Term of office of sarpanch and deputy sarpanch.

[6][15. Save as otherwise provided in this Act, a sarpanch and a deputy sarpanch shall hold office for the term of a panchayat.]

Sarpanch to carry on current duties until his successor is appointed.

16. After the expiry of his term of office, the sarpanch shall continue to carry on the current duties of his office until such time as a new sarpanch shall have been elected and shall have taken over charge.

Election of sarpanch on establishment of panchyat, etc.

17. (*1*) On the establishment of a panchayat for the first time under this Act, or on its reconstitution or establishment under section 102 or 103, a meeting shall be called [7][on the date fixed under sub-section (*1*) of section 12] by the president of the district local board, who shall himself preside or appoint a person who is not a member of the panchayat to preside over the meeting. The president of the district local board or the person so appointed shall preside at such meeting but shall have no right to vote and the meeting shall then proceed to elect the sarpanch. In the case of an equality of votes the result of the election of the sarpanch shall be decided by lot to be drawn by the person presiding at the meeting in such manner as he may determine.

(*2*) On the expiry of the term of a panchayat, [8]* * * the sarpanch shall convene [9][on the date fixed under sub-section (*1*) of section 12] a meeting of the panchayat for the election of a new sarpanch. He shall preside at such meeting,

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[1] Sub-section (*1*) was substituted for the original by Bom. 18 of 1939, sec. 10 (*1*).
[2] This figure was substituted for the figure " 7 " by Bom. 60 of 1947, s. 5.
[3] Sub-sections (*3*) and (*4*) were deleted by Bom. 18 of 1939, sec. 10 (*2*).
[4] The words " elected or nominated " were deleted, *ibid.*, sec. 11.
[5] The brackets and figure " (*1*) " and sub-section (*2*) were deleted, *ibid.*, sec. 12.
[6] Section 15 was substituted for the original, *ibid.*, sec. 13.
[7] These words, brackets and figures were inserted, *ibid.*, s. 14 (*i*).
[8] The words and figures " or on the expiry of the period of one year for which a sarpanch ordinarily holds office as provided in section 15 " were deleted, *ibid*, s. 14(*ii*) (*a*).
[9] These words, brackets and figures were inserted, *ibid.*, s. 14 (*ii*) (*b*).

but shall not vote thereat unless he is a member of the panchayat at that time. In the case of an equality of votes the result of the election shall be decided by lot to be drawn by the presiding sarpanch in such manner as he may determine :

[1][Provided that when no meeting for the election of a sarpanch has been called by the retiring sarpanch on the date fixed under sub-section (*1*) of section 12 or if a meeting called by him for this purpose on the aforesaid date has not been attended by him, the president of the district local board shall proceed to convene a meeting of the panchayat in the manner described in sub-section (*1*) and a new sarpanch shall be elected accordingly.

If the president of the district local board fails to convene such meeting within a period of 15 days from the date fixed under sub-section (*1*) of section 12, the Collector himself shall convene such meeting. The president of the district local board or the Collector, as the case may be, shall nominate one of the members to preside at the meeting so convened. If the person so nominated fails to preside at the meeting the members present shall elect one of them to preside.]

[2][(*3*) In the event of a dispute arising as to the validity of the election of a sarpanch under sub-section (*1*) or sub-section (*2*), the dispute shall be referred to the Collector for decision. The decision of the Collector shall be final and no suit or other proceeding shall lie in any court in respect of any such decision.]

Resignation by sarpanch or deputy sarpanch.

18. The deputy sarpanch may resign his office by giving notice in writing to the sarpanch.

The sarpanch may resign his office by giving notice in writing to the president of the district local board.

Such resignations shall take effect from the date of their acceptance.

Time and place of sitting of panchayat and procedure at meetings.

19. The time and place of sitting and the procedure at a meeting of the panchayat shall be in accordance with by-laws.

Executive of panchayat.

20. The executive power for the purpose of carrying out the provisions of this Act and the resolutions passed by a panchayat vests in the sarpanch who shall be directly responsible for the due fulfilment of the duties imposed upon the panchayat by or under this Act. In the absence of the sarpanch, the powers and duties of the sarpanch shall, save as may be otherwise prescribed by by-laws, be exercised and performed by the deputy sarpanch.

Removal from office.

21. The district local board may, after giving due notice to the panchayat and after such enquiry as it thinks fit, remove from office with the previous sanction of the Collector any member, or any sarpanch or deputy sarpanch who [3][has been guilty of misconduct, or neglect of or incapacity to perform his duty] or is persistently remiss in the discharge of his duties. A sarpanch or deputy sarpanch so removed may, at the discretion of the district local board, and subject to the like sanction also be removed from the panchayat [4]* * *
[5]* * * * * *

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[1] This proviso was substituted for the original by Bom. 18 of 1939, s. 14 (*iii*).
[2] This sub-section was added by Bom. 60 of 1947, s. 6.
[3] These words were substituted for the words " in its opinion is unfit to be member or sarpanch or deputy sarpanch as the case may be " by Bom. 18 of 1939, s. 15(*i*).
[4] The words " unless he is an *ex-officio* member of the panchayat " were deleted, *ibid.*, s. 15 (*ii*).
[5] The words " The panchayat may, with the previous sanction of the president of the district local board, and after due notice and inquiry remove the secretary of a panchayat from office for similar reasons " were deleted, *ibid.*, s. 15 (*iii*).

Leave of absence.

22. (*1*) Any [1]* member of a panchayat who, during his term of office,—

(*a*) is absent for more than four consecutive months from the village unless leave not exceeding six months, so to absent himself, has been granted by the panchayat ; or

(*b*) absents himself for six consecutive months from the meetings of the panchayat without the leave of the said panchayat,

shall cease to be a member and his office shall become vacant.

(*2*) Any dispute as to whether a vacancy has or has not occurred under this section shall be referred for decision to the Collector whose decision shall be final.

Filling up of vacancies.

23. (*1*) Any vacancy of which notice shall have been given to the Collector in the prescribed manner due to the disablement, death, resignation, disqualification, absence without leave or removal of a sarpanch or a deputy sarpanch, or [2][a] member, shall be filled, by the election of a sarpanch or deputy sarpanch or [3]* * * * a member, who shall hold office so long only as the sarpanch, deputy sarpanch or member, in whose place he has been elected, [4]* * * would have held office if the vacancy had not occurred :

[5][Provided that if no member is so elected within four weeks from the date on which notice of the vacancy is given to the Collector, the standing committee of the district local board shall, within the next four weeks, appoint a person who would have been qualified to be elected. If the standing committee of the district local board fails to make any such appointment within the time specified, the Collector shall make such appointment and the person so appointed shall be deemed to have been duly elected under this sub-section.]

[6][Provided further that notwithstanding anything contained in section 6, if the vacancy be of an elected member and occurs within four months preceding the date on which the term of office of the members of the panchayat expires under section 11, the vacancy shall not be filled.]

(*2*) The meeting for the election of a sarpanch under sub-section (*1*) shall be convened by the president of the district local board in the manner described in sub-section (*1*) of section 17.

Vacancy not to affect proceedings of panchayat

24. During any vacancy in the panchayat, the continuing members may act as if no vacancy had occurred.

Temporary provision pending establishment of panchayats under this Act.

25. Notwithstanding anything contained in this Act, the village fund shall, until such date as [7][the Provincial Government] may notify in the [8][*Official Gazette*], be administered, so far as may be, under the provisions of this Act by the panchayats constituted under the Bombay Village Panchayats Act, 1920, which panchayats shall be deemed to have been established under this Act.

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[1] The words " elected or nominated " were deleted, by Bom. 18 of 1939, s. 16.

[2] The letter " a " was substituted for the words " an elected or nominated ", *ibid.*, s. 17(*i*).

[3] The words " the election or nomination of " were deleted, *ibid.*, s. 17 (*ii*).

[4] The words " or nominated " were deleted *ibid.*, s. 17 (*iii*).

[5] This proviso was added by Bom. 60 of 1947, s. 7.

[6] This further proviso was added by Bom. 4 of 1949, s. 3.

[7] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[8] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* ", *ibid.*

CHAPTER III.

ADMINISTRATIVE POWERS AND DUTIES.

Administrative powers and duties of panchayats.

26. (*1*) It shall be the duty of a panchayat, so far as the village funds at its disposal will allow subject to the general control of the district local board, to make reasonable provision within the village in regard to the following matters, namely :—

(*a*) the supply of water for domestic use ;

(*b*) the cleansing of the public roads, drains, bunds, tanks and wells (other than tanks and wells used for irrigation) and other public places or works ;

(*c*) the construction, maintenance and repair of public roads, drains, bunds and bridges :

Provided that, if the roads, drains, bunds and bridges vest in any other public authority, such works shall not be undertaken without the consent of such authority ;

(*d*) sanitation, conservancy, and the prevention and abatement of nuisances ;

(*e*) the preservation and improvement of the public health ;

(*f*) the maintenance and regulation of the use of public buildings, grazing lands, forest lands (including lands assigned under section 28 of the [1]Indian Forest Act, 1927), tanks and wells (other than tanks and wells used for irrigation), vesting in or under the control of the panchayat ;

XVI of 1927.

(*g*) the lighting of the village ;

(*h*) control of fairs, bazars, slaughter-houses and cart-stands ; and

(*i*) provision, [2][maintenance and regulation] of burning and burial grounds.

[3]* * * *

[4][(*2*)] A panchayat may, with the previous sanction of the district local board, also make provision for carrying out outside the village any work of the nature specified in [5][sub-section (*1*)].

Discretionary powers and duties of panchayats.

[6][**26A.** (*1*) It shall be competent to a panchayat, so far as the village fund at its disposal will allow and subject to the general control of the district local board, to make reasonable provision within the village in regard to the following matters, namely :—

(*a*) crop experiments ;

(*b*) construction and maintenance of slaughter-houses ;

(*c*) relief of the destitute and the sick ;

(*d*) improvement of agriculture ;

(*e*) co-operative farming ;

(*f*) improvement of cattle and their breeding and the general care of the live-stock ;

(*g*) establishment of granaries ;

(*h*) village libraries and reading-rooms ;

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[1] *See* Central Acts.

[2] These words were substituted for the words " and maintenance " by Bom. 60 of 1947, s.8.

[3] Sub-section (*2*) was deleted, *ibid.*

[4] Sub-section (*3*) was renumbered as sub-section (*2*), *ibid.*

[5] This was substituted for " sub-sections (*1*) and (*2*), *ibid.*

[6] This section was inserted, *ibid.*, s. 9.

(*i*) planting of trees along roads in market places and other public places and their maintenance and preservation ;

(*j*) lay-out and maintenance of play-grounds for village children and of public gardens ;

(*k*) promotion, improvement and encouragement of cottage industries ;

(*l*) destruction of stray and ownerless dogs ;

(*m*) construction and maintenance of dharamshalas ;

(*n*) management and control of ghats which are not managed by any other authority ;

(*o*) assistance to the residents when any natural calamity occurs ;

(*p*) disposal of unclaimed corpses and carcasses and unclaimed cattle ;

(*q*) construction and maintenance of public latrines ;

(*r*) establishment and maintenance of markets ;

(*s*) watch and ward of the village and the crops therein :

Provided that the cost of watch and ward under paragraph (*s*) shall be levied and recovered by the panchayat from such persons in the village and in such manner as may be prescribed ;

(*t*) construction and maintenance of houses for the conservancy staff of the panchayat.

(*2*) A panchayat may also make provision for carrying out within the village any other work or measure which is likely to promote the health, safety, education, comfort, convenience or social or economic well-being of the inhabitants of the village.]

Powers of district local board to transfer maintenance of institutions and execution of other works.

27. The district local board may, at any time, with the consent of the panchayat, transfer to such panchayat the management of any institution or the execution of any work not provided for in section 26, and it shall thereupon be lawful for such panchayat to undertake the management of such institution or the execution of such work :

Provided that in every such case the funds necessary for such management or execution shall be placed at the disposal of the panchayat by the district local board.

Other duties.

28. (*1*) The panchayat shall,—

(*i*) subject to the regulations made by the local authority under the [1]Bombay Primary Education Act, 1923, supervise the village school and carry out such repairs as may be necessary for the maintenance and upkeep of the same ; and Bom. IV of 1923.

(*ii*) subject to by-laws to be made by the district local board in this behalf,—

(*a*) supervise the labour employed by local boards on works within the village ;

(*b*) supervise repairs to dharamshalas ;

(*c*) manage and maintain cattle pounds ; and

(*d*) execute such works as are entrusted to it by the district local board ; and

(*iii*) subject to such conditions as [2][the Provincial Government] may impose and with the consent of the panchayat concerned, perform such other administrative duties including the distribution of irrigation water as may be assigned to it by [2][the Provincial Government] by notification in the [3][*Official Gazette*], after consultation with the district local board.

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[1] See now the Bombay Primary Education Act, 1947 (Bom. 61 of 1947).

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

(*2*) The regulations to be made by the local authority shall be made within six months from the passing of this Act. If no such regulations are made within the said period [1][the Provincial Government] may make rules for the purpose.

(*3*) A panchayat shall not be bound to carry out repairs to a village school under clause (*i*) of sub-section (*1*) unless sufficient funds have been placed at the disposal of the panchayat by the local authority or the School Board, as the case may be, or to perform the duties specified in clause (*ii*) of sub-section (*1*) unless sufficient funds have been placed at the disposal of the panchayat by the district local board.

Joint Committees of two or more local bodies.

[2][**28A.** (*1*) A panchayat may, from time to time, concur with any other panchayat or with any municipality, district local board or cantonment authority or committee appointed for a notified area or with more than one such panchayat, municipality, district local board, authority or committee,—

(*a*) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested and in appointing a chairman of such committee;

(*b*) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work and any power which might be exercised by either or any of such bodies; and

(*c*) in framing and modifying rules for regulating the proceedings of any such committee and the conduct of correspondence, relating to the purpose for which the committee is appointed.

(*2*) A panchayat may from time to time enter, subject to the sanction of the Provincial Government, into an agreement with any other panchayat, or with any municipality, district local board, cantonment authority or committee appointed for a notified area or with a combination of any such bodies, for the levy of octroi duty whereby the octroi duties respectively leviable by the bodies so contracting may be levied together instead of separately within the limits of the area subject to the control of the said bodies.

(*3*) Where a panchayat has requested the concurrence of any other local authority under the provisions of sub-section (*1*) or (*2*) in respect of any matter and such other local authority has refused to concur, the Commissioner may pass such orders as he may deem fit requiring the concurrence of such other local authority, not being a cantonment authority, in the matter aforesaid and such other local authority shall comply with such orders.

(*4*) If any difference of opinion arises between local bodies acting under this section, the decision thereupon of the Provincial Government or of such officer as it appoints in this behalf shall be final:

Provided that, where one of the local bodies is a cantonment authority, the decision of the Provincial Government, or of the officer, shall be subject to the concurrence of the Central Government.]

Government may vest certain lands in panchayat.

[3][**28B.** For the purposes of this Chapter, the Provincial Government may, subject to such conditions and restrictions as it may think fit to impose, vest in a panchayat open sites, waste, vacant or grazing lands or public roads and streets, wells, river-beds, tanks, trees or any other property in the village vesting in the Crown.]

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] Section 28A was inserted by Bom. 4 of 1949, s. 4.

[3] This section was inserted by Bom. 60 of 1947, s. 10 and was renumbered as 28B by Bom. 4 of 1949, s. 4.

CHAPTER IV.

INCORPORATION OF VILLAGE PANCHAYAT; ITS PROPERTY AND FUND.

Incorporation of village panchayat.

29. Every panchayat shall be a body corporate by the name of "the village panchayat of ," and shall have perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall be competent to acquire and hold property, both moveable and immovable whether within or without the limits of the village over which it has authority, to lease, sell or otherwise transfer moveable or immovable property which may become vested in or be acquired by it, and to contract and do all other things necessary for the purposes of this Act:

Provided that no lease of immovable property [other than property referred to in sub-section (*1*) of section 30] for a term exceeding [1][three] years and no sale or other transfer of any such property shall be valid unless such lease, sale or other transfer shall have been made with the previous sanction of the Collector.

Property of panchayat.

30. (*1*) It shall be competent to a local board from time to time to direct that any property vesting in such local board shall vest in panchayat [2][and on such direction being issued, the property shall vest in the panchayat notwithstanding anything contained in the Transfer of Property Act, 1882, or the Indian Registration Act, 1908.]: V of 1882. XVI of 1908.

[3][Provided that no lease, sale or other transfer of any such immovable property by the panchayat shall be valid without the previous sanction of the Commissioner and of such local board.]

(*2*) Every work constructed by a panchayat out of the village fund shall vest in such panchayat.

illage fund:

31. (*1*) There shall be in each village a fund, which shall be called the village fund.

(*2*) The following shall form part of, or be paid into, the village fund, namely :—

(*a*) the amount which may be allotted to the village fund by [4][the Provincial Government] under the provisions of section 191 of the Bombay District Municipal Act, 1901; Bom. III of 1901.

(*b*) the proceeds of any tax or fee imposed under section 89;

(*c*) all [5]* * * sums ordered to be paid as compensation realised under sections 45 and 46;

(*d*) all other sums ordered by a court to be placed to the credit of the village fund;

(*e*) the sale proceeds, except in so far as any person entitled to the whole or a portion thereof, of all dust, dirt, dung or refuse (including the dead bodies of animals) collected by the village servants;

(*f*) sums contributed to the village fund by [4][the Provincial Government] or a district local board;

(*g*) all sums received by way of loans from [4][the Provincial Government] or the district local board or by way of gift;

[6]* * * * * * * * *

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[1] The word "three" was substituted for the word "seven" by Bom. 18 of 1939, s. 18.
[2] This portion was inserted by Bom. 60 of 1947, s. 11.
[3] This proviso was substituted for the original, *ibid.*
[4] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
[5] The words "fines and" were omitted, *ibid.*
[6] Clause (*h*) was omitted, *ibid.*

(*i*) the income or proceeds of any property vesting in the panchayat ; and

(*j*) fees levied for the institution of suits and cases under section 59.

Appli of vil fund.

32. All property vested in the panchayat under this Act, and all funds received by it in accordance with the provisions of this Act, and all sums accruing to it under the provisions of any law for the time being in force shall be applied subject to the provisions and for the purposes of this Act and all such funds and sums shall be kept in such custody as may be prescribed.

CHAPTER V.

ESTABLISHMENT AND ACCOUNTS.

Secretary of panchayat.

[1][**33.** (*1*) Every panchayat shall appoint a Secretary who shall be a servant of the panchayat. His qualifications, powers, duties, remuneration and conditions of service (including disciplinary matters) shall be such as may be prescribed.

(*2*) The Provincial Government shall pay three-fourths of the salary and allowances of such Secretary.

Bom. LX of 1947.

(*3*) Every Secretary of a panchayat in office on the date of the coming into operation of the Bombay Village Panchayats (Amendment) Act, 1947, shall be deemed to have been appointed under sub-section (*1*).]

Schedule of servants.

34. Subject to the provisions of section 98, a panchayat shall determine and submit for information to the district local board a schedule of the number and salaries of its servants required for carrying out the duties imposed upon the panchayat by or under this Act.

Appointment of servants.

35. (*1*) The sarpanch shall appoint the servants of the panchayat and pay their salaries from the village fund at his disposal. He may also, in cases of emergency, engage such temporary servants as he may deem necessary. The sarpanch may, from time to time, by a written order, fine, suspend or dismiss any servant appointed by him.

(*2*) An appeal shall lie against an order passed under sub section (*1*) to the panchayat.

Budget and accounts. Panchayat to convene a meeting of residence of village.

36. (*3*) A panchayat shall determine annually and shall submit to the district local board, on or before such date and in such form as may be prescribed by [2][the Provincial Government], a statement of—

(*a*) the opening balance and estimated income of the panchayat for the following year ;

(*b*) the expenditure proposed on establishment and the discharge of the duties specified in sub section (*1*) of section 26 ;

(*c*) the expenditure proposed under [3][section 26A] and sub-section (*1*) of section 28.

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[1] Section 33 was substituted for the original by Bom. 60 of 1947, s. 12.

[2] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[3] This was substituted for " sub-section (2) of section 26 " by Bom. 60 of 1947, s. 13.

(*2*) The district local board shall, within three months from the date of the receipt of such statement, either approve the same or direct that the proposed expenditure on any of the duties specified in sections 26 and 28 shall be increased or deceased:

Provided that the district local board shall not have power to direct that the total proposed expenditure shall exceed the estimated income of the village fund for the following year and the opening balance.

[1][(*3*) The Secretary appointed under section 33 shall keep the accounts of the panchayat in such form as may be prescribed. He shall prepare the annual report of the administration of the panchayat and shall place the accounts and the report for approval before the panchayat. The annual statements of such accounts together with the annual report as approved shall be sent to the district local board on or before such date and in such form as may be prescribed.

[1][(*4*) A panchayat shall convene in a manner and at a time prescribed a meeting of all adult residents of the village and the statements of the accounts together with a report on the administration for the preceding year and the programme of the work proposed for the year following shall be read out and explained at such meeting.]

CHAPTER VI.

CONSTITUTION AND POWERS OF [2][NYAYA PANCHAYATS].

Election of [2][nyaya panchayats.]

[3][**37.** (*1*) Every panchayat shall at its first meeting elect out of its members in the manner prescribed five persons for the purpose of constituting a [2][*nyaya panchayat*].

[4][(*1A*) If any question, doubt or dispute arises as to the validity of the election of a member of a *nyaya panchayat* under sub-section (*1*), it shall be referred to the Collector for decision. The decision of the Collector shall be final and no suit or other proceeding shall lie in any Court in respect of such question, doubt or dispute.

(*2*) The five persons so elected shall constitute a [2][*nyaya panchayat*] and the Provincial Government shall direct that such [2][*nyaya panchayat*] may exercise all or any of the judicial powers which may be conferred on the [2][*nyaya panchayat*] under this Act: Provided that the Provincial Government may at any time, by notification in the Official Gazette, withdraw all or any of the judicial powers conferred on a [2][*nyaya panchayat*] if, in the opinion of the Provincial Government, such [2][*nyaya panchayat*] has been incompetent in the exercise of or has been guilty of the abuse of the said powers.

(*3*) Save as herein provided the term of office of the members of such [2][*nyaya panchayat*] shall be co-extensive with the term of their office as the members of the panchayat.

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[1] Sub-sections (*3*) and (*4*) were substituted for the original by Bom. 18 of 1939, s. 20.
[2] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.
[3] Sections 37, 37A, 37B and 37C were substituted for section 37 by Bom. 18 of 1939, s. 21.
[4] This sub-section was inserted by Bom. 60 of 1947, s. 14.

(*4*) If any vacancy arises in the office of any of the members of such [1][*nyaya panchayat*], it shall be filled by election in the manner prescribed. The member so elected shall hold office so long only as the member in whose place he has been elected would have held office if the vacancy had not occurred.

(*5*) Out of the members so elected three members shall form a quorum.

(*6*) Save as provided in this Act, the Provincial Government may make rules to regulate—

(*a*) the conduct and distribution of business and practice before a [1][*nyaya panchayat*].

(*b*) the times and places at which the [1][*nyaya panchayat*] shall sit.

(*c*) any other matter which in the opinion of the Provincial Government may be necessary for the conduct of proceedings before a [1][*nyaya panchayat.*]

Chairman of [1][*nyaya panchayat.*]

[2][**37A.** Every [1][*nyaya panchayat*] shall have a Chairman. The Chairman shall be elected by the [1][*nyaya panchayat*], from amongst the members of the [1][*nyaya panchayat*] and the term of office of the Chairman of such [1][*nyaya panchayat*] shall be co-extensive with the term of the [1][*nyaya panchayat*].

Judicial Clerk of Panchayat.

[2][**37B.** The Secretary of a panchayat shall act as the judicial clerk of the [1][*nyaya panchayat*] for the purpose of recording its proceedings and decisions and doing such other duties as may be prescribed.]

Removal of a member from the [1][*nyaya panchayat*].

[2][**37C.** (*1*) The Provincial Government, if it thinks fit, may remove any member elected on the [1][*nyaya panchayat*] after giving him an opportunity of being heard and after such inquiry as the Provincial Government deems necessary, if in the opinion of the Provincial Government such member has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct or neglects or refuses to perform or has been incapable of performing any of the duties as a member of the [1][*nyaya panchayat*].

(*2*) If any inquiry is held under sub-section (*1*), the Provincial Government may suspend such member from being on the [1][*nyaya panchayat*] for such period as it thinks fit.

(*3*) The removal or suspension of such member under sub-section (*1*) or (*2*) shall not by reason of that fact alone disqualify him from being a member of a panchayat.

(*4*) A person removed from a [*nyaya panchayat*] under sub-section (*1*) shall not be eligible for re-election on such [*nyaya panchayat*].

Saving of pending proceedings.

38. Every suit or case of the nature specified in section 39 or 41, pending in any court and cognizable by a [1][*nyaya panchayat*] empowered under section 37 and all proceedings arising from and incidental to any such suit or case shall be tried, heard and determined by such court or any other court having jurisdiction to try, hear and determine the same, as if this Act had not been passed.

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[1] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[2] These sections were substituted for section 37 by Bom. 18 of 1939, s. 21.

Suits triable by [2][*nyaya panchayat.*]

39. (*1*) Save as otherwise provided in section 40, [1][power to try all or any of the following suits may be conferred on a [2][*nyaya panchayat*] under section 37,] namely :—

(*a*) suits for money due on contracts, not affecting any interest in immoveable property ;

(*b*) suits for the recovery of moveable property or for the value of such property ;

(*c*) suits for compensation for wrongfully taking and injuring moveable property ;

where the amount or value of the claim does not exceed twenty-five rupees.

(*2*) With the written consent of both the parties, recorded in the presence of the [2][*nyaya panchayat*], suits of the nature described in sub-section (*1*), but the value of which does not exceed one hundred rupees, shall be triable by such [2][*nyaya panchayat*].

(*3*) [3][The Provincial Government] may, by notification in the [4][*Official Gazette*], direct that any [2][*nyaya panchayat*] may try any suit of the nature described in sub-section (*1*), up to such value as may be specified in the notification not exceeding one hundred rupees.

Suits not triable by [2][*nyaya panchyat.*]

40. No suit shall be brought before any [2][*nyaya panchayat*]—

(*i*) on a balance of partnership account ;

(*ii*) for a share or part of a share under any intestacy, or for a legacy or part of a legacy under a will ;

(*iii*) by or against [5][the Crown] or any local authority or an officer or servant of [6][the Crown] or a member, officer or servant of a local authority in his official capacity ;

(*iv*) by or against a minor or a person of unsound mind ; and

(*v*) on account of any dispute or matter in respect of which any suit or application would be cognizable by a revenue court.

Offences cognizable by [2][*nyaya panchayat.*]

[7][**41.** Power to take cognizance of and try all or any of the following offences may be conferred on [2][*nyaya panchayat*] under section 37, namely :— XLV of 1860.

(*a*) Under the Indian Penal Code—

	Section.
Negligently doing any act known to be likely to spread the infection of any disease dangerous to life	269
Fouling the water of a public spring or reservoir ..	277
Causing danger, obstruction or injury to any public way ..	283

[1] These words and figures were substituted for the words " the village bench shall have power to try the following suits," by Bom. 18 of 1939, s. 22.

[2] These words were substituted for " village bench " or " bench " by Bom. 60 of 1947, s. 25.

[3] The words " The Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[4] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* ", *ibid.*

[5] The words " the Crown " were substituted for the words " the Secretary of State for India in Council " *ibid.*

[6] The words " the Crown " were substituted for the word " Government ", *ibid.*

[7] Section 41 was substituted for the original by Bom. 18 of 1939, s. 23.

		Section
	Voluntarily causing hurt	323
	Assault or use of criminal force otherwise than on grave and sudden provocation	352
	Assault or use of criminal force on grave and sudden provocation	358
	Theft, where the value of the property stolen does not exceed Rs. 20	379
	Mischief when the loss or damage caused does not exceed Rs. 20 in value	426
	Criminal trespass	447
	House trespass	448
	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property	461
	Intentional insult, with intent to provoke a breach of the peace.	504
I of 1871.	(*b*) Under the Cattle-trespass Act, 1871—	
	Forcibly opposing the seizure of cattle or rescuing the same	24
XI of 1890.	[1][(*c*) Under the Prevention of Cruelty to Animals Act, 1890—	
	Practising phooka	4
	Killing animals with unnecessary cruelty	5
	Being in possession of the skin of a goat killed with unnecessary cruelty	5A
	Employing animals unfit for labour	6
	Baiting or inciting animals to fight	6C
	Permitting diseased animals to go at large or to die in public places	7
Bom. IV of 1890.	(*d*) Under the Bombay District Police Act, 1890—	
	Being drunk and incapable of taking care of himself in a street or public place or place of public resort	61(*1*) (*p*)
Bom. I of 1892.	(*e*) Under the Bombay District Vaccination Act, 1892—	
	Inoculating, entering a vaccination area after inoculation, and bringing person inoculated into area	22
	Disobedience of order of the Magistrate for the vaccination of any unprotected child under 14 years	23
	Not producing child	24
	Neglecting to take child to be vaccinated	25
Bom. IV of 1923.	(*f*) Under the Bombay Primary Education Act, 1923[2]—	
	Failure to cause child to attend school	21
	Employing child liable for compulsory education	22
Bom. V of 1925.	(*g*) Under the Bombay Prevention of Adulteration Act, 1925—	
	Sale or manufacture of food not of the proper nature, substance or quality	4
	(*h*) Breaches of by-laws made punishable under this Act :]	

[1] These clauses were substituted for clause (c) by Bom. 18 of 1939, s. 15.
[2] *See* now the Bombay Primary Education Act, 1947 (Bom. 61 of 1947).

Provided that no offence of theft shall be cognizable by any [1][*nyaya panchayat*], unless an accused person has been either apprehended or recognised and named.

Certain persons accused of theft not to be tried by [1][*nyaya panchayat*].

42. No [1][*nyaya panchayat*] shall take cognizance of any offence of theft punishable under section 379 of the Indian Penal Code in which the accused— XLV of 1860.

(*a*) has been previously convicted of an offence punishable, under Chapter XII or Chapter XVII of the Indian Penal Code, with imprisonment of either description for a term of three years or upwards; XLV of 1860.

(*b*) has been previously fined for theft by any [2][*nyaya panchayat*];

(*c*) is a registered member of a criminal tribe under section 4 of the [3]Criminal Tribes Act, 1924; or VI of 1924.

(*d*) has been bound over to be of good behaviour in proceedings instituted under section 109 or, section 110 of the Code of Criminal Procedure, 1898. V of 1898.

Offences by or against public servant not cognizable by [1][*nyaya panchayat*].

43. No [1][*nyaya panchayat*] shall take cognizance of any offence specified in section 41 in which either the complainant or the accused is a public servant serving in the district in which the village for which the panchayat is established is situated:

Provided, however, that a [1][*nyaya panchayat*] shall not be debarred from taking cognizance of an offence for a breach of a by-law, notwithstanding that the complainant in the case is a public servant.

Conviction by a [1][*nyaya panchayat*] not a previous conviction.

44. A conviction by a [1][*nyaya panchayat*] under this Act shall not be deemed to be a previous conviction for the purposes of section 75 of the Indian Penal Code. XLV of 1860.

Maximum penalties.

45. (*1*) The following are the maximum penalties which may be inflicted by a [4][*nyaya panchayat*] for the offences mentioned in section 41:—

(*a*) Under the Indian Penal Code—

Fine not exceeding Rs. [4][20] or double the amount of the loss or damage caused up to a limit of Rs. [4][40].

(*b*) Under section 24 of the [3]Cattle-trespass Act, 1871—

Fine not exceeding Rs. [4][10].[5]*

[6][(*bb*) Uder section 21 of the BombayPrimary Education Act, 1923[7]— Bom. IV of 1923.

Fine as provided in that section;

(*bc*) Under section 22 of the Bombay Primary Education Act, 1923[7], or under the provisions of any other Act mentioned in section 41— Bom. IV of 1923.

Fine not exceeding Rs. 20; and]

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[1] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[2] These words were substituted for the word "panchayat", *ibid.*, s. 16.

[3] The Criminal Tribes Act, 1924 has ceased to extend to the Province of Bombay with effect from the 13th August 1949. (*Vide* G. N., H. D., No. 9642/5, dated the 5th August 1949). *See* therefore the Bombay Habitual Offenders Restriction Act, 1947 (Bom. 51 of 1947).

[4] These figures were substituted for the original, *ibid.*, s. 17.

[5] The word "and" was deleted, *ibid.*

[6] These clauses were inserted, *ibid.*

[7] *See* now the Bombay Primary Education Act, 1947 (Bom. 61 of 1947).

(*c*) For a breach of a by-law made punishable under this Act—

Fine not exceeding Rs. 10 or Re. 1 a day for a continuing breach as provided in sub-section (*3*) of section 109.

(*2*) No sentence of imprisonment, whether substantive or in default of fine or of whipping, shall be inflicted by a [1][*nyaya panchayat*].

Power of Provincial Government to empower particular [1][*nyaya panchayat*] to inflict enhanced penalties.

46. [2][The Provincial Government] may empower, by a notification in the [3][*Official Gazette*] a [1][*nyaya panchayat*] to inflict the following maximum penalties :—

(*a*) Under the sections of the Indian Penal Code mentioned in section 41—

Fine not exceeding Rs. [4][40] or double the amount of the damage or loss caused, whichever is greater.

I of 1871.

(*b*) Under section 24 of the [5]Cattle-trespass Act, 1871—

Fine not exceeding Rs. [4][20].

Bom. IV of 1923.

[6](*c*) under the provisions of any other Act mentioned in section 41 except the Bombay Primary Education Act, 1923[7]—

Fine not exceeding Rs. [4][50].

Compensation to complainants.

47. In inflicting any fine under section 45 or section 46, the [1][*nyaya panchayat*] may direct that the whole or any portion of the fine recovered shall be applied—

(*a*) towards defraying the expenses properly incurred in the case by the complainant, or

(*b*) in giving compensation to a person for any material loss or damage caused to him by reason of the commission of the offence.

Compensation to accused for false or frivolous case.

48. If a [1][*nyaya panchayat*] is satisfied, after enquiry, that a case brought before it is false, frivolous or vexatious, such [1][*nyaya panchayat*] may order the complainant to pay the accused such compensation, not exceeding Rs. 5, as it thinks fit.

Youthful offenders.

49. Instead of passing any sentence, a [1][*nyaya panchayat*] may discharge, after due admonition, a youthful offender who, in the opinion of such [1][*nyaya panchayat*] is, at the time of conviction of the offence, under the age of sixteen years.

Members interested not to sit on [1][*nyaya panchayat*].

50. No member of a [1][*nyaya panchayat*] who is a party to, or has any interest in, any suit or case shall sit on the [1][*nyaya panchayat*] while it is trying such suit or case.

Any dispute as to whether a member of a [1][*nyaya panchayat*] is a party to or interested in a suit or case shall, on a written application of a party to such suit or case, be referred to the Collector or such officer as he may authorise in this behalf for decision. The decision of the Collector or such officer shall be final.

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[1] These words were substituted for the words " village bench " or " bench " by Bom. 60 of 1947, s. 25.

[2] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[3] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* ", *ibid.*

[4] These figures were substituted for the original by Bom. 60 of 1947, s. 18.

[5] *See* Central Acts.

[6] This clause was inserted by Bom. 60 of 1947, s. 18.

[7] *See* foot-note 7 on pre-page.

Res judicata and pending suits and cases.

51. (*1*) No [1][*nyaya panchayat*] shall try any suit or issue in respect of any matter which is pending for decision in, or has been heard and decided by, a court of competent jurisdiction in a previously instituted suit between the same parties or those under whom they claim.

(*2*) Where an accused person has been tried for any offence, no [1][*nyaya panchayat*] shall take cognizance of such offence or, on the same facts, of any other offence of which the accused might have been charged or convicted.

Suits to include whole claim.

52. Every suit instituted before a [1][*nyaya panchayat*] shall include the whole of the claim which the plaintiff is entitled to make in respect of the matter in dispute but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of the [1][*nyaya panchayat*].

If a plaintiff [2][intentionally omits to sue in respect of or] relinquishes any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

Limitation for suits and cases.

53. (*1*) No suit shall be entertained by a [1][*nyaya panchayat*] after the expiration of one year from the time when the right to sue first accrued.

(*2*) No case shall be cognizable by a [1][*nyaya panchayat*] after the expiration of one month from the date on which the offence was committed.

[1][*Nyaya panchayat* before which suits to be instituted.

54. Every suit under this Act shall be instituted before the [1][*nyaya panchayat*] of the village in which the defendant or each of the defendants, where there are more than one, resides at the time of the institution of the suit, irrespective of the place where the cause of action arose.

[1][*Nyaya panchayat* before which cases to be] instituted.

55. Every case under this Act shall be instituted before the [1][*nyaya panchayat*] of the village in which the offence was committed.

Return of complaints.

56. Any magistrate upon receiving a complaint of facts constituting an offence cognizable by a [1][*nyaya panchayat*] shall, unless reason to the contrary be shown to the satisfaction of the magistrate, return the complaint for presentation to the [1][*nyaya panchayat*] having jurisdiction to try the same.

Bar of jurisdiction of courts in suits and cases.

57. Notwithstanding anything contained in any law for the time being in force, no court, subject to the provisions of section 56, shall entertain any suit specified in section 39 or take cognizance of any offence specified in section 41, unless and until [3][the District Court or the District Magistrate, as the case may be], has passed an order in writing under section 77 or 87.

Bom. Act VIII of 1867, sections 14, 15 and 16 not to apply to village which has [*nyaya panchayat.*]

58. Notwithstanding anything contained in the Bombay Village Police Act, 1867, the provisions of sections 14, [4][15 and 16] of the said Act shall not apply to any village in which a [1][*nyaya panchayat*] shall have been constituted under [5]* * section 37. Bom. VIII of 1867.

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[1] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[2] These words were substituted for the words "omits to sue in respect of or intentionally" by Bom. 18 of 1939, s. 24.

[3] These words were substituted for the words "the District Judge or the Collector" by Bom. 18 of 1939, s. 25.

[4] The figures and word "15 and 16" were inserted, *ibid.*, s. 26 (*a*).

[5] The words, figure and brackets "sub-section (*1*) of" were deleted, *ibid.*, s. 26 (*b*).

Pending cases before [2][*nyaya panchayat*] when term of office has expired.

[1][**58A.** A [2][*nyaya panchayat*] newly constituted on the expiry of the term of office of the members of another [2][*nyaya panchayat*] or a [2][*nyaya panchayat*] newly constituted on the dissolution of another [2][*nyaya panchayat*] under section 106, shall hear and dispose of all suits, cases and proceedings pending before the latter at the date of the expiry of such term or at the date of such dissolution :

Provided that the hearing of such suits, cases and proceedings shall commence anew before the [2][*nyaya panchayat*] newly constituted, as if such suits, cases and proceedings were instituted before it].

CHAPTER VII.

PROCEDURE OF PANCHAYATS IN SUITS AND CASES.

Suits and cases ; how instituted.

59. Any person who wishes to institute a suit or case under this Act before a [2][*nyaya panchayat*] shall make an application orally or in writing to the Chairman or during his absence from the village to such other member of the [2][*nyaya panchayat*] as the Chairman may appoint in this behalf and shall at the same time pay the prescribed fees.

Substance of application to be recorded.

60. The substance of the application shall be recorded without delay in the prescribed register and the signature or thumb-impression of the applicant shall be taken on the register and the register shall be signed by the Chairman or, in his absence, by any member authorised under section 59.

Plaintiff or complainant to attend next sitting of [2][*nyaya panchayat.*]

61. Every suit or case instituted in accordance with the provisions of section 59 shall be brought before the [2][*nyaya panchayat*] at its next sitting and the plaintiff or complainant, as the case may be, shall, at the time of making the application, be informed of the time and place fixed for such sitting and directed to attend at that time and place.

Summons to be issued to defendant or accused.

62. The [2][*nyaya panchayat*] after hearing the application, shall cause a written summons in the prescribed form to be served on the defendant or accused, as the case may be, requiring him to attend and produce his evidence at such time and place as may be stated in the summons and shall, at the same time, direct the plaintiff or complainant to attend and produce his evidence at such time and place :

Provided that the [2][*nyaya panchayat*] may, for reasons to be recorded, after hearing the application and examining the plaintiff or complainant, refuse to issue a summons and dismiss the suit or complaint.

Summons by whom served.

63. Such summons shall ordinarily be caused to be served by the patel or village headman. Where there are two patels in a village, one of whom is a revenue patel and the other a police patel, the summons shall ordinarily be served by the revenue patel if it relates to a suit and by police patel if it relates to a case :

Provided, however, that a [2][*nyaya panchayat*] may cause the summons to be served through any other person.

Mode of service of summons.

64. The summons shall be in duplicate, signed by the presiding member of the [2][*nyaya panchayat*] and shall, as far as possible, be served personally on the defendant or accused, as the case may be, whose signature or thumb-impression shall be taken in token of service. If the defendant or accused cannot be found and the

[1] Section 58A was inserted, by Bom. 18 of 1939, s. 27.

[2] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, 25.

[1][*nyaya panchayat*] is satisfied that he is evading service or if he refuses to take the summons, the [1][*nyaya panchayat*] may order service to be made on an adult male member of his family residing with him, or by affixing a copy thereof upon some conspicuous part of the house in which he ordinarily resides.

Mode of service outside village.

65. If a defendant or accused is, at the time of the issue of the summons, outside the village of the panchayat, the summons may be forwarded by the [1][*nyaya panchayat*] to the Collector or to any officer not below the rank of a mamlatdar, who may be authorised by the Collector in this behalf, and the Collector or such officer shall cause the summons to be served as if it were summons from his own court.

Exemption of certain persons from appearance in suits.

66. (*1*) Women who, according to the customs and manners of the country, ought not to be compelled to appear in public, shall be exempt from personal appearance before a [1][*nyaya panchayat*] in any suit.

(*2*) Persons exempted from personal appearance in any court under section 133 of the Code of Civil Procedure, 1908, shall also be exempt from personal appearance before a [1][*nyaya panchayat*] in any suit. V of 1908

Issue of summons to witnesses.

67. (*1*) A [1][*nyaya panchayat*] may, if it considers the evidence of, or the production of a document by, any person necessary in a suit or case, issue a summons to such person to compel him to attend or to produce or cause the production of such document, and such person shall be bound to comply with the directions contained in the summons. Such summons shall be in the form and served in the manner as hereinbefore provided.

(*2*) A [1][*nyaya panchayat*] may refuse to summon a witness or to enforce a summons already issued against a witness where, in its opinion, the attendance of the witness cannot be procured without an amount of delay, expense or inconvenience which in the circumstances, would be unreasonable.

(*3*) No [1][*nyaya panchayat*] shall enforce the attendance of any person living outside the village to give evidence, or to produce a document, unless such sum of money is deposited with the [1][*nyaya panchayat*] as appears to the [1][*nyaya panchayat*] to be sufficient to defray his reasonable expenses and if in the opinion of the Collector or officer empowered under section 65, as the case may be, the attendance of any such person is not necessary for the proper adjudication of the suit or case, such Collector or officer shall return the summons to the [1][*nyaya panchayat*] with his endorsement accordingly.

(*4*) No [1][*nyaya panchayat*] shall compel any person to give evidence or to disclose any communication which such person cannot be permitted to give or compelled to disclose under the provisions of the [2]Indian Evidence Act, 1872, or under any other law for the time being in force. I of 1872.

Pleaders, etc. excluded from appearance.

68. No pleader, vakil, or mukhtyar, and no advocate or attorney of a High Court, shall be permitted to appear on behalf of any party to any suit or case before a [1][*nyaya panchayat*] [3]* * * *:

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[1] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[2] *See* Central Acts.

[3] The words and figures "or in any inquiry under section 87" were omitted by Bom. 18 of 1939, sec. 28.

Provided that any party to any such suit or case may be permitted, on reasonable cause being shown to the satisfaction of the [1][*nyaya panchayat*] [2]* * * to employ any relation, servant, dependant, or friend who is not and who has not previously been a pleader, vakil, or mukhtyar or an advocate or attorney of a High Court, to appear either conjointly with or in lieu of such party.

When a relation, servant, dependant, or friend appears in lieu of a party, he shall be furnished by such party with a written authority defining the extent to which he is empowered to act.

Decision of suit or case or facts ascertained

69. (*1*) It shall be the duty of a [1][*nyaya panchayat*] to ascertain the facts of a suit or case before it after holding an inquiry in accordance with the provisions of this Act and the rules.

(*2*) Nothing in any enactment relating to evidence or procedure shall in any way affect the powers of a [1][*nyaya panchayat*] to hold such inquiry.

(*3*) After holding such inquiry, a [1][*nyaya panchayat*] may pass such decree or order, with or without prescribed fees subject to the provisions of this Act, as may in its opinion seem just and equitable. [3][Such decree or order shall state the finding and a brief statement of the reasons thereof.]

Decision of the [1][*nyaya panchayat*]

70. The decision of the [1][*nyaya panchayat*] shall be in accordance with the opinion of the members of the [1][*nyaya panchayat*] who are present at the sitting or of the majority of such members. If the members are equally divided, the person presiding shall have a second or casting vote.

Adjournment.

71. The [1][*nyaya panchayat*] may, from time to time, adjourn the hearing of any suit or case:

Provided that such adjournment is, in its opinion, unavoidable or necessary to a just and equitable decision of the suit or case.

Disposal of suits and cases in absence of party concerned.

72. (*1*) If the plaintiff or complainant fails to appear, after having been informed of the time and place fixed for the hearing, the [1][*nyaya panchayat*] may hear and decide the suit or case in his absence.

(*2*) The [1][*nyaya panchayat*] may hear and decide a suit or case in the absence of the defendant or the accused, if a summons has been served upon him in the manner hereinbefore prescribed, or if he has been informed of the time and place fixed for hearing:

Provided that no sentence shall be passed by a [1][*nyaya panchayat*] on any accused, unless he has appeared, either in person or by a representative, before the [1][*nyaya panchayat*] and the substance of his statement has been recorded in the prescribed register.

(*3*) If, after the service of summons upon him, an accused fails to appear, either in person or by a representative, the [1][*nyaya panchayat*] may apply to the District Magistrate or to any officer not below the rank of a second class magisgrate authorised by the District Magistrate in this behalf, and such District Magistrate or officer shall compel the accused to appear in person or by his representative before the [1][*nyaya panchayat*] as if he were a court trying the case.

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[1] These words were substituted for "village bench" or "bench" by Bom. 60 of 1947, s. 25.
[2] The words "or the District Judge or Collector" were omitted by Bom. 18 of 1939, s. 28.
[3] These words were inserted, *ibid.*, sec. 29.

(*4*) Where an accused person has, under sub-section (*3*), been compelled to appear before the [1][*nyaya panchayat*], the [1][*nyaya panchayat*] shall forthwith take his statement, and thereafter his attendance at the hearing of the case shall not be compulsory.

Compromise of suits and compounding of cases.

[2][**73.** (*1*) Where it is proved to its satisfaction that a suit has been adjusted wholly or in part by oath or by any lawful agreement, compromise or satisfaction, the [1][*nyaya panchayat*] shall order such agreement, compromise or satisfaction to be recorded and shall pass a decree in accordance therewith so far as it relates to the suit.

(*2*) A [1][*nyaya panchayat*] may permit any case to be compounded :

Provided that when a [1][*nyaya panchayat*] does not pass a decree in accordance with the agreement, compromise or satisfaction under sub-section (*1*) or does not permit a case to be compounded under sub-section (*2*), it shall record its reasons in writing.]

Death of parties.

74. When any party to a suit dies before a decree has been passed, the suit shall abate, but a fresh suit may be brought on the same cause of action, and the period during which the suit was pending shall be excluded in computing the period of limitation prescribed under section 53 for the fresh suit.

[1][*Nyaya panchayat*] not to revise or alter its decision.

75. (*1*) Except as provided in sub-section (*2*), a [1][*nyaya panchayat*] shall not have power to cancel, revise or alter any decree or order passed by it.

(*2*) On application made within one month from the date of the decree or order of a [1][*nyaya panchayat*], the [1][*nyaya panchayat*] may, for reasons to be recorded in writing, restore any suit which has been dismissed for default or in which an *ex parte* decree has been passed against the defendant.

Interest and instalments.

76. In suits for money, a [1][*nyaya panchayat*] may, in its discretion, direct payment of interest on the sum decreed, at a rate not exceeding six per cent. per annum, from the date of the decree until the date of payment and of any fees which may be prescribed.

When a [1][*nyaya panchayat*] decrees the payment of a sum of money in a suit it may direct that it be paid by instalments, without interest, or with interest not exceeding the above rate.

Reference by [1][*nyaya panchayat*] to District Court or District Magistrate.

77. (*1*) When any [1][*nyaya panchayat*] is of opinion that any suit or cause before it is of such a nature, or of such intricacy or importance that it ought to be tried by a court [3][or that the accused in a case ought to receive a punishment different in kind from, or more severe than, that which such *nyaya panchayat* is empowered to inflict] it shall stay proceedings and refer the suit to [4][the District Court] or the case to [5][the District Magistrate] for [6]* orders.

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[1] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[2] Section 73 was substituted for the original by Bom. 18 of 1939, s. 30.

[3] These words were inserted by Bom. 60 of 1947, s. 19.

[4] These words were substituted for the words "the District Judge or any officer not below the rank of Subordinate Judge who may be authorised by the District Judge in that behalf" by Bom. 18 of 1939, s. 31 (*1*) (*a*).

[5] These words were substituted for the words "the Collector or any officer below the rank of Mamlatdar who may be authorised by the Collector in this behalf", *ibid.*, s. 31 (*1*) (*b*).

[6] The word "his" was deleted, *ibid.*, s. 31 (*1*) (*c*).

(*2*) If [1][the District Court or District Magistrate, as the case may be], is of the opinion that the suit or case is of such nature, intricacy or importance that it ought not to be tried by the [2][*nyaya panchayat*] [3][or that the accused in a case ought to receive a punishment different in kind from, or more severe than, that which such *nyaya panchayat* is empowered to inflict] [4][such court or Magistrate] shall pass orders directing the plaintiff or complainant to the civil or criminal court, as the case may be, competent to take cognizance of such suit or case.

(*3*) If [1][the District Court or District Magistrate, as the case may be], is of opinion that the suit or case is not of such nature, intricacy or importance that it ought to be tried by a Court, [3][or that the accused in a case ought not to receive a punishment different in kind from, or more severe than, that which such *nyaya panchayat* is empowered to inflict] [4][such Court or Magistrate] shall return the suit or case to the [2][*nyaya panchayat*], which made the reference, for disposal.

Appeals.

[5][**78.** (*1*) An appeal shall lie to the District Court against a decree passed by a [2][*nyaya panchayat*] in any suit and to the District Magistrate against an order in any case.

(*2*) The period for filing such appeals shall be thirty days from the date of the decree or order, as the case may be.]

Finality of decrees and orders.

[6][**79.** Every order passed under section 77, 78, 87, or 87A by a District Court or by a District Magistrate shall be final and shall not be subject to any appeal, revision or review.]

CHAPTER VIII.

EXECUTION.

Satisfaction or adjustment of decree to be recorded.

80. If, on the application of a decree-holder or judgment-debtor, the [2][*nyaya panchayat*], after enquiry, finds that the decree has been satisfied or adjusted, wholly or in part, the [2][*nyaya panchayat*] shall record the fact in the prescribed register.

Execution through Collector.

81. (*1*) If, after a period of one month from the date of a decree, the decree remains unsatisfied or unadjusted, in whole or in part, the decree-holder may, within one year of the date of the decree, apply to the [2][*nyaya panchayat*] for execution.

(*2*) On such application for execution, the [2][*nyaya panchayat*] shall certify to the Collector that the decree remains unsatisfied or unadjusted, in whole or in part and on receipt of such certification the Collector shall, provided that the [2][*nyaya panchayat*] shall have certified to the Collector within one year from the date of the application for execution,—

(*a*) if the decree is for money, proceed to recover it as if it were an arrear of land revenue ; or

(*b*) if the decree is for any specific moveable property, cause the decree to be executed as if it were a decree of a civil court, and in so acting may exercise all the powers of a civil court.

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[1] These words were substituted for the original Bom. 18 of 1939, s. 31 (*2*).
[2] These words were substituted for " village bench " or " bench " by Bom. 60 of 1947, s. 25.
[3] These words were inserted, *ibid.*, s. 19.
[4] These words were substituted for the word " he " by Bom. 18 of 1939, s. 31 (*2*).
[5] Section 78 was substituted for the original., *ibid*, s. 32.
[6] Section 79 was substituted for the original, *ibid.*, s. 33.

Execution of instalment decree through Collector.

82. (*1*) If, after a period of one month from the date fixed for the payment of any instalment of a sum of money decreed by a [1][*nyaya panchayat*] under section 76 an instalment or any portion thereof remains unpaid, the decree-holder may, within one year of the date when it fell due, apply for execution to the [1][*nyaya panchayat*].

(*2*) On such application for execution, the [1][*nyaya panchayat*] shall certify to the Collector that the instalment or a portion thereof still remains unpaid, and on receipt of such certification the Collector shall, provided the [1][*nyaya panchayat*] shall have certified to the Collector within one year from the date of the application for execution, proceed to recover the amount of the instalment so remaining unpaid as if it were an arrear of land revenue.

Satisfaction of decree or instalment after certificate.

83. If, after the issue of the certificate to the Collector under section 81 or 82, but before the decree has been executed through the Collector, the decree or the instalment is fully satisfied and satisfaction is recorded under section 80, the [1][*nyaya panchayat*] shall forthwith certify such satisfaction to the Collector who shall thereupon stay the execution proceedings. All sums of money realised by execution through the Collector shall, after satisfaction of the decree, be refunded to the judgment-debtor.

Fine and compensation when payable.

84. (*1*) Every sum ordered to be paid as compensation and every fine imposed under sections 45, 46, 47 and 48 by a [1][*nyaya panchayat*] shall be payable at once:

Provided that the [1][*nyaya panchayat*] may allow any person ordered by it to pay compensation or fine to pay the same within such time, not exceeding fifteen days, as it may think proper and on such terms as to security as it shall seem to the [1][*nyaya panchayat*] necessary to impose.

Mode of recovery.

(*2*) If the amount of fine or compensation remains unpaid for fifteen days from the date of the order, the [1][*nyaya panchayat*] shall recover the same by distraint and sale of the defaulter's moveable property.

(*3*) If the amount of fine or compensation is not fully recovered, the [1][*nyaya panchayat*] shall certify accordingly to the Collector, and on receipt of such certification the Collector shall, provided the panchayat shall have certified to the Collector within a period of one year from the date when the amount became recoverable by the [1][*nyaya panchayat*] under sub-section (*2*), proceed to recover it as if it were an arrear of land revenue and shall remit the amount so recovered to the [1][*nyaya panchayat*].

Fine or compensation, when realised, to be recorded.

85. As soon as the amount of fine or compensation referred to in section 84 is realised by the [1][*nyaya panchayat*] whether directly or through the Collector, the amount so realised shall be entered in the prescribed register [2]* * *.

Payment of compensation out of village fund.

86. Any money which has been ordered by the [1][*nyaya panchayat*], under section 47 or section 48, to be paid as expenses or compensation, shall be paid by it out of the amount realised under sections 45 and 46. [3]* * * *

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[1] These words were substituted for the words "village bench" and "bench" by Bom. 60 of 1947, s. 25.

[2] The words "and shall be credited by the village bench to the village fund" were omitted by the Adaptation of Indian Laws Order in Council.

[3] The words "and the payment so made shall be debited to the village fund" were omitted, *ibid*.

87. (*1*) The [1][District Court] in any suit and the [2][District Magistrate] in any case may, at any time, either [3][on the application of an aggrieved party or otherwise] or on a reference made by a [4][*nyaya panchayat*] under section 77 by order in writing, [5]* * * quash any proceedings of a [4][*nyaya panchayat*] at any stage, or cancel any decree or order passed by a [4][*nyaya panchayat*]. District Court or District Magistrate may quash proceedings.

(*2*) When an order has been passed by the [6][District Court] under sub-section (*1*) in respect of any suit, the plaintiff may institute a fresh suit for the same relief in a civil court, and the period from the date of the institution of the suit before the [4][*nyaya panchayat*] to the date of such order shall be excluded in computing the period of limitation for the fresh suit.

(*3*) Where an order has been passed by the [7][District Magistrate] under sub-section (*1*) in respect of any case, proceedings in respect of the same offence may be instituted in the court of a magistrate having jurisdiction.

[8][**87A.** (*1*) The District Court in any suit and the District Magistrate in any case may at any time on the application of an aggrieved party or otherwise by order in writing transfer any suit or case, as the case may be, to a civil or criminal court competent to try the same. Transfer of suit or case by the District Court or District Magistrate.

(*2*) On the transfer of such suit or case, the court to which it is transferred shall hear such suit or case anew as if such suit or case was instituted before it.]

[8][**87B.** Subject to the provisions of this Act in regard to all proceedings under this Act, District Courts and District Magistrates shall have the same powers and shall follow the same procedure as they respectively have and follow in regard to proceedings in connection with decrees or orders of courts subordinate to them in their ordinary jurisdiction.] Procedure in proceedings before District Court and District Magistrate.

88. No person shall be arrested or imprisoned in execution of a decree under the provisions of this Act. Bar to arrest and imprisonment in execution of decree.

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[9]CHAPTER VIII-A.

Abolition of [4][*Nyaya Panchayats*] *in Greater Bombay.*

88A. Notwithstanding anything contained in this Act, the provisions of sections 37 and 57 shall not apply to the panchayat of any village situated in Greater Bombay. Abolition of [4][*nyaya panchayats*] in Greater Bombay.

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[1] These words were substituted for the words "District Judge" by Bom. 18 of 1939, s. 34 (*1*).
[2] These words were substituted for the word "Collector", *ibid.*
[3] These words were substituted for the words "of his own motion or on the application of an aggrieved party", *ibid.*
[4] These words were substituted for "village bench" or "bench" by Bom. 60 of 1947, s. 25.
[5] The words "cancel the jurisdiction of a village bench or" were deleted, *ibid.*
[6] These words were substituted for the words "District Judge", by Bom. 18 of 1939, s. 34 (*2*).
[7] These words were substituted for the word "Collector", *ibid.*, s. 34 (*3*).
[8] Sections 87A and 87B were inserted, *ibid.*, s. 35.
[9] Chapter VIII-A was inserted by Bom. 24 of 1946, s. 2.

Pending proceedings.

88B. (*1*) A [1][*nyaya panchayat*] constituted before the date of the coming into force of the Bombay Village Panchayats (Amendment) Act, 1946, in respect of a village situated in Greater Bombay and exercising judicial powers conferred upon it under the Act shall stand dissolved on the said date. Bom. XXIV of 1946.

(*2*) On the dissolution of the [1][*nyaya panchayat*] under sub-section (*1*), the provisions of clauses (*i*) and (*ii*) of sub-section (*2*) of section 106 shall apply with the modification that the reference in clause (*ii*) to the Court of the Civil Judge or Magistrate shall be deemed to be a reference to the relevant civil court or Magistrate in Greater Bombay.

Appeals.

88C. An appeal against a decree or order passed by such [1][*nyaya panchayat*] before its dissolution under sub-section (*1*) of section 88B shall within thirty days from the date of the decree or order, as the case may be, lie to such authority as the Provincial Government may direct. Every order passed in appeal shall be final and shall not be subject to any appeal, revision or review:

Provided that any such appeal pending on the date of the coming into force of the Bombay Village Panchayats (Amendment) Act, 1946, shall be disposed of as if the said Act had not been passed. Bom. XXIV of 1946.

CHAPTER IX.

Taxation and Recovery of Claims.

Levy of taxes and fees by panchayat.

89. [2][(*1*) Every panchayat shall levy a tax upon the owners or occupiers of houses including farm buildings whether or not subject to payment of agricultural assessment, and of lands which are not subject to payment of agricultural assessment, within the limits of the village, in such manner, at such rates and subject to such exemptions as may be prescribed..

(*1A*) Where an owner of a house or land has left the village or cannot otherwise be found, any person to whom such house or land has been transferred shall be liable for the tax leviable under sub-section (*1*) from such owner.

(*1B*) The rules made for the levy of the tax specified in sub-section (*1*) may provide that the payment of such tax may be made either in cash or by rendering of work and labour];

[3][(*2*) It shall be competent to a panchayat to levy all or any of the following taxes or fees at such rates and in such mnner [4][and subject to such exemptions] as may be prescribed, namely :—]

[5]* * * * *

(*ii*) a pilgrim tax;

(*iii*) a tax on [6][fairs, festivals and entertainments];

(*iv*) a tax on sales of goods;

(*v*) octroi;

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[1] These words were substituted for "village bench" and "bench" by Bom. 60 of 1947, s. 25.

[2] Sub-sections (*1*), (*1A*) and (*1B*) were inserted, *ibid*, s. 20.

[3] These words, figures and brackets were substituted for the words, figures and brackets "(*2*) Taxes or fees which are leviable by a panchayat under sub-section (*1*) are:—" by Bom. 18 of 1939, s. 36 (*b*) (*i*).

[4] These words were inserted by Bom. 2 of 1945, s. 5 (*ii*), read with Bom. 60 of 1947, s. 2.

[5] Sub-clause (*i*) was deleted by Bom. 18 of 1939, s. 36 (*b*) (*ii*).

[6] These words were substituted for "fairs and festivals" by Bom. 60 of 1947, s. 20.

(*vi*) a tax on marriages, adoptions and feasts;

[1][(*via*) a tax on shops and hotels;

(*vib*) a tax on premises where machinery is run by steam, oil or electric power for any purpose other than a domestic or agricultural purpose];

Bom. XXXIV of 1935.

[2][(*vii*) any other tax (not being a toll on motor vehicles or trailers, save as provided by section 14 of the Bombay Motor Vehicles Tax Act, 1935) which the Provincial Legislature has, under the Government of India Act, 1935, power to impose in the Province and which has been approved by the district local board and sanctioned by the Provincial Government.]

[3][(*2A*) Notwithstanding anything contained in sub-section (*2*), every panchayat shall levy any one of the taxes specified in sub-section (*2*) as may be prescribed in regard to the panchayat].

(*3*) Any person aggrieved by the assessment, levy or imposition of any such tax or fee may appeal to the [4][standing committee of the district local board]. The decision of the [4][standing committee of the district local board] in the matter shall be final.

(*4*) [5][The Provincial Government] may suspend the levy or imposition of any tax or fee [6]* * * and may at any time rescind such suspension.

[7][(*5*) Until provision to the contrary is made by the Central Legislature, a panchayat which, immediately before the commencement of Part III of the Government of India Act, 1935, was lawfully levying under this section, as then in force, any tax other than the taxes mentioned in sub-section (*2*) may continue to levy that tax].

Power of district local board to increase taxation of panchayat.

90. (*1*) If in the opinion of the district local board the regular income of a panchayat falls below what is necessary for the proper discharge of the duties specified in sections 26 and 28, the district local board may require the panchayat to take steps, within six months, to increase its income to such extent as the district local board considers necessary. If the panchayat fails to take adequate steps to increase its income to the required extent, the district local board may required it to levy or increase any of the taxes or fees specified in section 89 :

Provided that the district local board shall not compel the panchayat to levy or increase any tax or fee beyond the maximum rate to be prescribed in this behalf.

(*2*) Any panchayat may appeal to the Commissioner against an order made under sub-section (*1*) and the Commissioner may stay the execution of such order until he has decided the appeal.

Recovery of taxes and other dues.

91. (*1*) When any tax or fee has become due, a panchayat shal with the least practicable delay, cause to be presented to the person liable for the payment thereof a bill for the amount due from him, specifying the date on or be re which the amount shall be paid.

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[1] Clauses (*via*) and (*vib*), were inserted, by Bom. 60 of 1947 s. 20.
[2] Clause (*vii*) was substituted for the original by the Adaptation of Indian Laws Order in Council.
[3] This sub-section was inserted by Bom. 60 of 1947, s. 20.
[4] These words were substituted for "district local board", *ibid.*
[5] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
[6] The words, brackets and figures "referred to in sub-section (*1*)" were deleted by Bom. 18 of 1939, s. 36 (*c*).
[7] Sub-section (*5*) was inserted by the Adaptation of Indian Laws Order in Council.

(2) If any person fails to pay any tax or any other sum due from him to a panchayat under this Act or the rules or by-laws on or before the specified date of payment, the panchayat shall cause a writ of demand [1][in the prescribed form] to be served on the defaulter.

[2][(2A) The presentation of every bill under sub-section (1) and the service of every writ of demand under sub-section (2) shall be effected by an officer or servant of the panchayat or other person authorised by the panchayat in this behalf—

(a) by giving or tendering the bill or writ to the person to whom it is addressed ; or

(b) if such person is not found, by leaving the bill or writ at his last known place of abode, if within the limits of the village, or by giving or tendering the bill or writ to some adult male member or servant of his family ; or

(c) if such person does not reside within the limits of the village, and his address elsewhere is known to the sarpanch or other person directing the issue of the bill or writ, then by forwarding the bill or writ to such person by registered post, under cover bearing the said address ; or

(d) if none of the means aforesaid be available, then by causing the bill or writ to be affixed on some conspicuous part of the building or land, if any, to which the bill or writ relates.]

(3) If the sum for which a writ of demand has been served is not paid within thirty days from the date of such service, the panchayat may levy such sum by distraint and sale of the moveable property of the defaulter [3][in the prescribed manner].

[4][(4) Fees for—

(a) every distress made under sub-section (3),

(b) every writ of demand issued under sub-section (2), and

(c) the costs of maintaining any livestock seized under sub-section (3),

shall be chargeable at such rates as may be prescribed.

(4A) Notwithstanding anything contained in the foregoing sub-sections, any tax or fee payable on demand in accordance with the rules shall be recoverable in such manner as may be prescribed.]

(5) If a panchayat is unable to recover a tax or other sum due to it as aforesaid, it may furnish to the mamlatdar or mahalkari a statement of the arrears due, with a request for the recovery of the same through the village officers, and on receipt of such statement of arrears, the [5][mamlatdar or mahalkari shall], provided such statement of arrears shall have been furnished by the panchayat to the mamlatdar or mahalkari within one year from the date specified in the bill presented under sub-section (1), proceed to recover the same as an arrear of land revenue through the village officers. For the recovery of such sums, the village officers shall be remunerated by the panchayat in such manner as may be prescribed [6]* * *.

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[1] These words were inserted by Bom. 18 of 1939, s. 37 (1).

[2] Sub-section (2A) was inserted by Bom. 2 of 1945, s. 6, read with Bom. 60 of 1947, s. 2.

[3] These words were inserted by Bom. 18 of 1939, s. 37 (2).

[4] Sub-sections (4) and (4A) were substituted for sub-section (4), *ibid*, s. 37 (3).

[5] These words were substituted for the words " mamlatdar or mahalkari may ", *ibid.*, s. 37 (4).

[6] The words " by by-laws " were omitted by Bom. 24 of 1936, s. 2, Sch.

(*6*) If a panchayat fails to recover any tax, fine or other sum due to it, or neglects to take action under sub-sections (*2*) and (*3*) of section 84 or (*2*) and (*3*) of this section, the district local board may apply to the Collector to recover the same as an arrear of land revenue :

Provided that no such application shall be made to the Collector after the expiry of [1][two years] from the date when the amount became certifiable under sub-section (*3*) of section 84 or from the date specified in the bill presented under sub-section (*1*) of this section, as the case may be.

On receipt of such application from the district local board, the [2][Collector shall] after holding such enquiry as he thinks fit, proceed to recover the sum as an arrear of land revenue [3][unless such sum is not under section 92 directed to be written off.]

92. The Collector may direct—

Collector's power to direct irrecoverable sums to be written off.

(*a*) any sum certified by a panchayat and recoverable by him under sections 81, 82 and 84 and sub-section (*6*) of section 91 :

(*b*) any arrear of a tax or any other sum due to a panchayat and recoverable through a mamlatdar or mahalkari under sub-section (*5*) of section 91 ;

to be written off, if in the opinion of the Collector, such sum or arrears are irrecoverable.

CHAPTER X.

Financial Assistance to Panchayats.

Contribution by Provincial Government.

[4][**92A.** [5]The Provincial Government shall make every year a grant to every panchayat levying the taxes under sub-sections (*1*) and (*2A*) of section 89 equivalent in amount to fifteen per cent. of the ordinary land revenue or twenty five per cent. of the local fund cess, realised in [6][the previous year] within the limits of the village, whichever is greater.]

Loan by district local board.

Bom. VI of 1923.

[6][**93.** Notwithstanding anything contained in the Bombay Local Boards Act, 1923, the district local board may, subject to rules, grant a loan to a panchayat within the district for the purposes of this Act.]

CHAPTER XI.

Control.

94. (*1*) The Collector or the district local board shall have power—

Power to call for proceedings, etc.

(*a*) to call for any extract from the proceedings of a panchayat, any book or document in the possession or under the control of a panchayat, and any return, statement, account or report which the Collector or the district local board may think fit to require such panchayat to furnish ; and

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[1] These words were substituted for the words "one year" by Bom. 18 of 1939, s. 37 (*5*) (*a*).
[2] These words were substituted for the words "Collector may", *ibid.*, s. 37 (*5*) (*b*).
[3] These words and figures were inserted, *ibid.*, s. 37 (*5*) (*c*).
[4] This section was inserted by Bom. 60 of 1947, s. 21.
[5] These words were substituted for the words "that year" by Bom. 4 of 1949, s. 5.
[6] This section was substituted for the original by Bom. 60 of 1947, s. 22.

(*b*) to require a panchayat to take into consideration—

(*i*) any objection which appears to the Collector or the district local board to exist to the doing of anything which is about to be done or is being done by such panchayat, or

(*ii*) any information which the Collector or the district local board is able to furnish, and which appears to the Collector or the district local board to necessitate the doing of a certain thing by the panchayat,

and to make a written reply to the Collector or the district local board, as the case may be, within a reasonable time, stating its reasons for not desisting from doing or for not doing such things.

(*2*) All or any of the powers given to the district local board under sub-section (*1*) may be delegated by it to its president, vice-president, chief officer, public health officer or executive engineer.

Delegation of duties, appointment of officers, utilisation of honorary agencies for encouraging the establishment and fostering the growth of panchayats.

95. (*1*) The district local board may delegate to the President, Vice-President, the Chief Officer, ublic Health Officer or any other officer specially appointed by the district local board in this behalf the duties of encouraging the establishment and fostering the growth of panchayats and of assisting panchayats in the proper exercise of their powers and performance of their duties under this Act.

(*2*) It shall be competent to the district local board to accept and utilise in an honorary capacity in the performance of any of the duties which may be delegated under sub-section (*1*) the services of any person who in the opinion of such Board is specially fitted to assist in this behalf.

(*3*) It shall be competent to [1][the Provincial Government] to appoint an officer to exercise such of the powers and perform such of the duties of a Collector [2][and if the district local board has been superseded the duties of a district local board] under this Act as [1][the Provincial Government] may prescribe. Such officer shall also perform such other duties and exercise such other powers as [1][the Provincial Government] may prescribe for the purpose of encouraging the establishment and fostering the growth of panchayats and [3][*nyaya panchayats*] and of assisting and advising panchayats and [3][*nyaya panchayats*] in the proper exercise of their powers and performance of their duties under this Act.

Powor of entry.

96. The district local board may authorise its president, vice-president, or any of its officers to enter on and inspect, or cause to be entered on and inspected, any immovable property occupied by any panchayat or any work in progress under its direction.

Audit of accounts.

97. The audit of the accounts of a panchayat shall, unless provision is otherwise made by [1][the Provincial Government] in that behalf, be carried out each year by the district local board, and such board shall, within one month of the completion of the audit, forward a copy of the audit note to the collector.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] These words were inserted by Bom. 18 of 1939, s. 39.

[3] These words were substituted for the original by Bom. 60 of 1947, s. 25.

Reduction of establishment.

98. (*1*) If, in the opinion of the Collector or the district local board, the number of persons maintained or proposed to be maintained by a panchayat as officers or servants, or the remuneration given or proposed to be given by the panchayat to such persons is excessive, the panchayat shall, on the requirement of the Collector or the district local board, as the case may be, reduce such number or remuneration.

(*2*) If there is a difference between the requirement of the Collector or of the district local board under sub-section (*1*), the panchayat shall refer the matter in difference to the Commissioner whose decision shall be final.

(*3*) The panchayat may appeal to the Commissioner against any requirement made under sub-section (*1*), and the decision of the Commissioner in the matter shall be final.

Suspension of execution of order.

99. (*1*) If, in the opinion of the Collector, the execution of any order or resolution of a panchayat, or the doing of anything which is about to be done or is being done by or on behalf of a panchayat, is causing or is likely to cause injury or annoyance to the public, or to lead to a breach of the peace, he may, by order in writing, suspend the execution or prohibit the doing thereof.

(*2*) When the Collector makes an order under sub-section (*1*) he shall forthwith send to the panchayat affected thereby a copy of the order, with a statement of the reasons for making it.

(*3*) The Collector shall forthwith submit to the Commissioner a report of every case occurring under this section, and the Commissioner may revise or modify any order made therein and make in respect thereof any other order which the Collector could have made.

Execution of work in case of emergency

100. (*1*) In cases of emergency the Collector may provide for the execution of any work or the doing of any act which a panchayat is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the panchayat.

(*2*) If the expense is not so paid, the Collector may direct the officer in charge of the treasury in which the village fund is kept to pay such expense, or so much thereof as is possible, from the balance of such fund in his hands.

(*3*) The Collector shall forthwith report to the Commissioner every case in which he exercises the powers under sub-section (*1*).

Default in performance of duty.

101. (*1*) If at any time it appears to the district local board that a panchayat has made default in the performance of any duty specified in section 26, it may order the duty to be performed within a specified period, and, if the duty is not performed within the period specified, the district local board may appoint some person to perform it, and direct that the expense of performance shall be paid by the defaulting panchayat, within such period as the district local board may fix.

(*2*) If the expense is not so paid, the district local board may direct the person in custody of the village fund to pay such expense, or so much thereof as is possible, from the balance of such fund in his hands.

[1][(2A) If at any time it appears to the Provincial Government or any officer authorised by the Provincial Government in this behalf that a panchayat has made default in the performance of any duty specified in section 26 and that the district local board has failed or neglected to take action under sub-section (*1*), the Provincial Government or the officer authorised, as the case may be, may take such action as could have been taken by the district local board under sub-sections (*1*) and (*2*).]

(*3*) The district local board [2][or the officer authorised, as the case may be,] shall forthwith report to the Commissioner every case occurring under this section and the Commissioner may revise or modify any order made therein and make in respect thereof any other order which the district local board could have made.

Dissolution or supersession of panchayat for default.

102. (*1*) If, in the opinion of [3][the Provincial Government], a panchayat exceeds or abuses its powers, or makes persistent default in the performance of the duties imposed on it under section 26 or any other law for the time being in force, [4][or fails to levy a tax under sub-section (*1*) or sub-section (*2A*) of section 89], [5][or persistently disobeys any of the orders of the Collector or Commissioner under section 99], [3][the Provincial Government] may, after consultation with the district local board by an order in the [6][*Official Gazette*]—

(*i*) dissolve such panchayat, or

(*ii*) supersede such panchayat for the period specified in the order.

(*2*) When a panchayat is dissolved or superseded, all members of the panchayat shall, from the date specified in the order, vacate their offices as such members.

(*3*) When a panchayat is dissolved, it shall be reconstituted in the manner provided in this Act.

(*4*) If a panchayat is superseded—

(*a*) all the powers and duties of the panchayat shall, during the period of supersession, be exercised and performed by such person or persons as [3][the Provincial Government] may, from time to time, appoint in that behalf; and

(*b*) all property vested in the panchayat shall during the period of supersession, vest in [3][the Provincial Government]; and

(*c*) on the expiry of the period of supersession, the panchayat shall be reconstituted in the manner provided in this Act, and the persons vacating office shall be eligible for re-election or re-nomination.

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[1] Sub-section (*2A*) was inserted by Bom 18 of 1939, s. 40 (*1*).

[2] These words were inserted, *ibid.*, s. 40 (*2*).

[3] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[4] This portion was inserted by Bom. 60 of 1947, s. 23.

[5] These words were inserted by Bom. 18 of 1939, s. 41.

[6] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by the Atdaptation of Indian Laws Order in Council.

Dissolution and reconstitution of panchayat on alteration of limits of village.

103. (*1*) When, during the term of the panchayat the limits of a village are altered, the [1][Collector] may, by order in writing dissolve such panchayat and direct a panchayat—

(*i*) to be reconstituted for the village of which the panchayat has been dissolved or

(*ii*) to be established for a village which has been newly declared.

The members of the panchayat which has been dissolved shall vacate their office from the date specified in the order.

(*2*) The panchayat reconstituted or established under the provisions of sub-section (*1*) shall consist of such members, either elected, [2]* or appointed in such manner as the [1][Collector] shall, by order in writing, direct.

The sarpanch and deputy sarpanch of the panchayat so reconstituted or established shall be elected in the manner provided in this Act.

(*3*) The term of the panchayat so reconstituted or established shall be for such period, not exceeding one year, as the [1][Collector] shall, by order in writing, specify.

(*4*) On the expiry of the term of the panchayat in accordance with the provisions of sub-section (*3*), the panchayat shall be constituted in the manner provided by this Act.

Vesting of property, etc., of panchayat which has been dissolved in reconstituted or established panchayat.

104. (*1*) When a panchayat has been dissolved and reconstituted or established under section 103, so much of the village fund and other property vesting in the panchayat which has been dissolved shall vest in, and such portion of the debts and obligations shall be transferred to, the reconstituted or established panchayat, as the Commissioner may, by order in writing, direct.

(*2*) The rights and liabilities of the panchayat which has been dissolved in respect of contracts, agreements and other matters or things arising in or relating to any part of the area subject to the authority of the reconstituted or established panchayat shall vest in such panchayat.

(*3*) Any notice, tax, order, licence, permission, rule or by-law made, issued or imposed in respect of any part of the area subject to the authority of the reconstituted or established panchayat shall be deemed to have been made, issued or imposed by or in respect of such panchayat, unless and until it is superseded by any notice, tax, order, licence, permission, rule or by-law made, issued or imposed by or in respect of such panchayat.

Effect of area being excluded from village.

[3][**104A**. Where by a notification under section 4 any local area forming part of a village is excluded from such village and such area is not included in or declared to be a village, so much of the village fund and other property vesting in the panchayat of the village of which such area formed part, as the Commissioner may by order in writing direct, shall vest in the district local board to be utilised for the benefit of the area as the district local board may think fit.

[1] The word 'Collector" was substituted for the word "Commissioner" by Bom. 18 of 1939, s. 42.

[2] The word "nominated" was deleted, *ibid.*, s. 42.

[3] Section 104A was inserted *ibid.*, s. 43.

Effect of area ceasing to be a village.

105. On any area ceasing to be a village, by virtue of any notification under section 4,—

(*a*) the panchayat shall be dissolved and all members of the panchayat shall vacate office as from the date of the notification;

(*b*) the unexpended balance of the village fund and the property vesting in the panchayat shall vest in the district local board, to be utilised for the benefit of the inhabitants of the area as the district local board may think fit.

Effect of dissolution or supersession of panchayats or of withdrawal of judicial powers of [1][*nyaya panchayats*] on [1][*naya panchayats* and proceedings pending before them.

106. (*1*) When a panchayat is dissolved or superseded under section 102, 103 or 105, the [1][*nyaya panchayat*] constituted in the village for which the panchayat was established [2][or where all the judicial powers of a [1][*nyaya panchayat*] have been withdrawn under the proviso to sub-section (*2*) of section 37 such [1][*nyaya panchayat*]] shall be deemed to have been dissolved and all members of the [1][*nyaya panchayat*] shall vacate office as from the date of dissolution or supersession [3][or the withdrawal of judicial powers] as the case may be.

(*2*) On the dissolution of the [1][*nyaya panchayat*] under sub-section (*1*)—

(*i*) the provisions of sub-sections (*2*) and (*3*) of section 87 shall be deemed to apply in respect of any suits or cases pending before the [1][*nyaya panchayat*] as if [4][the District Court or District Magistrate], as the case may be, had passed an order under sub-section (*1*) of section 87 quashing such suits or cases; and

(*ii*) all pending proceedings and applications for the execution of decrees or orders in suits, and for the recovery of fines and compensation in cases shall be transferred to the Court of the Subordinate Judge or the Magistrate, as the case may be, who would have had jurisdiction to try the suit or case if the [1][*nyaya panchayat*] had not been constituted and such Subordinate Judge or Magistrate, as the case may be, shall deal with the proceedings or applications as if the suit or case out of which the proceedings or applications arose, had been heard and decided by such Subordinate Judge or Magistrate.

[5][(*3*) If any local area is excluded from a village and no panchayat is constituted for the area so excluded the provisions of sub-section (*2*) shall, so far as may be, apply in respect of any suits, cases, proceedings or applications which may be pending before the [1][*nyaya panchayat*] in respect of the said area, as if so far as such suits, cases, proceedings and applications are concerned, the [1][*nyaya panchayat*] had been dissolved.]

Authority of Provincial Government.

[6][**107.** (*1*)] In all matters connected with this Act, [7][the Provincial Government] shall have and exercise the same authority and control over the district local boards as it has and exercises over them under the Bombay Local Boards Act, 1923. Bom. VI of 1923.

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[1] These words were substituted for "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[2] These words, figures and brackets were inserted, by Bom. 18 of 1939, s. 44 (*1*) (*a*).

[3] These words were inserted, *ibid.*, s. 44 (*1*) (*b*).

[4] These words were substituted for the words "the District Judge or the Collector", *ibid.*, 44 (*2*).

[5] Sub-section (*3*) was inserted, *ibid.*, s. 44 (*3*).

[6] Section 107 was renumbered as section 107 (*1*), *ibid.*, s. 45.

[7] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[1][(2) In all matters connected with this Act, the Provincial Government and the Commissioners and Collectors shall have and exercise the same authority and control over the Commissioners, the Collectors and their subordinates, respectively, as they have and exercise over them in the general and revenue administration.]

[2][**107A.** The Provincial Government may call for and examine the record of proceedings of any officer (except the proceedings of the District Court or the District Magistrate in judicial proceedings in appeal, revision or reference from the proceedings of a [3][*nyaya panchayat*] for the purpose of satisfying itself as to the legality or propriety of any order passed and may revise or modify the order as shall seem fit.] Provincial Government may call for proceedings.

CHAPTER XII

RULES AND BY-LAWS.

108. (*1*) [4][The Provincial Government] may, by notification in the [5][*Official Gazette*], make rules— Rules.

(*a*) under section 4, regulating the manner in which the [6][Collector] may hold an inquiry ;

(*b*) under section 6, [7][prescribing the number of seats to be reserved for the representatives of women, Muhammadans, Harijans or backward tribes in each village panchayat;]

(*c*) under section 7, prescribing the manner in which the election of members shall be held ;

(*d*) under section 23, regulating the manner in which notice of a vacancy in the office of a sarpanch, deputy sarpanch or members of a panchayat shall be given ;

[8][(*d*1) under section 26A, prescribing the persons in the village from whom and the manner in which the costs of watch and ward under clause (*s*) of sub-section (*1*) of section 26A shall be levied and recovered ;]

(*e*) under section 32, prescribing the custody in which all funds received by and all sums accruing to a panchayat shall be kept ;

[9][(*e*1) under section 33, prescribing the [10][qualifications], 'powers, duties, remuneration and conditions of service [11][(including disciplinary matters)] of the Secretary of the panchayat] ;

(*f*) under section 36, prescribing the date of submission and form of annual budgets, returns and accounts and the manner in, and the time at, which the meeting of the residents of the village shall be convened ;

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[1] Sub-section (*2*) was inserted by Bom. 18 of 1939, s. 45.

[2] Section 107A was inserted, *ibid.*, s. 46.

[3] These words were substituted for the words "village bench" and "bench by Bom. 60 of 1947 s. 25.

[4] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[5] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[6] The word "Collector" was substituted for the word "Commissioner" by Bom. 18 of 1939, s. 47 (*a*).

[7] These words were substituted for the words "regulating the manner in which the Collector shall nominate the holder or his representative", *ibid.*, s. 47 (*b*).

[8] This clause was inserted by Bom. 60 of 1947, s. 24.

[9] Clause (*e*1) was inserted by Bom. 18 of 1939, s. 47(*bb*).

[10] This word was inserted by Bom. 60 of 1947, s. 24.

[11] These words and brackets were inserted, *ibid.*

[1][(*g*) under section 37, prescribing the manner in which the members constituting a [2][*nyaya panchayat*] shall be elected, and regulating any of the matters specified in sub-section (*6*) of the said section;

(*gg*) under section 37B, prescribing the other duties which the Secretary of a panchayat acting as the Judicial Clerk of that panchayat shall do;]

(*h*) under section 59, prescribing the fees payable on the institution of suits and cases;

(*i*) under sections 60, 72, 80 and 85 prescribing the particulars to be entered in registers for suits and cases;

(*j*) under section 62, prescribing the form of summons;

[3]* * * * * * *

(*l*) under section 76, prescribing the scale of fees which a [2][*nyaya panchayat*] may direct to be paid in a suit or case;

(*m*) under section 89, prescribing the rate and the manner in which [4][and the exemptions subject to which] taxes and fees specified in the section shall be leviable;

[5][(*m*1) under sub-section (*2A*) of section 89, prescribing for each panchayat any one of the taxes specified in sub-section (*2*)];

(*n*) under section 90, prescribing the maximum rate for the levy of taxes or fees specified in section 89;

[6][(*n*1) under sub-section (*2*) of section 91, prescribing the form of the writ to be presented to the defaulter;

(*n*2) under sub-section (*3*) of section 91, prescribing the form of warrant, the method of attachment, auction and sale of the defaulter's moveable property;]

(*o*) [7][under sub-section (*4*) of section 91, prescribing the rates of fees for writs of demand, distress and costs of maintaining any live-stock seized, and] under sub-section (*5*) of section 91, prescribing the remuneration of village officers for the recovery of taxes and other sums due to a panchayat and the manner in which such remuneration shall be paid;

(*p*) under section 93, prescribing the terms on which loans may be granted to a panchayat by the district local board;

(*q*) under section 95, prescribing the powers and duties which may be delegated to or exercised or performed by an officer or person appointed; [8]*

(*r*) under sub-sections (*3*) and (*4*) of section 112, regulating the delegation by [9][the District Court or the District Magistrate] of the powers therein referred to;

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[1] Clauses (*g*) and (*gg*) were substituted for clause (*g*) by Bom. 18 of 1939, s. 47 (*c*).

[2] These words were substituted for "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[3] Clause (*k*) was deleted by Bom. 18 of 1939 s. 47 (*d*).

[4] These words were inserted by Bom. 2 of 1945 s. 7 read with Bom. 60 of 1947 s. 2.

[5] This clause was inserted by Bom. 60 of 1947 s. 24.

[6] Clauses (*n*1) and (*n*2) were inserted by Bom. 18 of 1939, s. 47 (*dd*).

[7] These words, brackets and figures were inserted, *ibid.*, s. 47 (*e*).

[8] The word "and" was deleted, *ibid.*, s. 47 (*f*).

[9] These words were substituted for the words "the District Judge or the Collector", *ibid.*, s. 47 (*g*).

[1][(*rr*) authorising the payment of contributions, at such rates and subject to such conditions as may be prescribed in such rules, to any provident fund which may be established by a panchayat, or with the approval of the panchayat, by the officers and servants of the panchayat ;]

[2][(*s*) for any other matter which may be prescribed;]

(*2*) The rules to be made under sub-section (*1*) shall be subject to the condition of previous publication.

(*3*) Rules made under sub-section (*1*) shall be laid [3][before each of the Chambers of the Provincial Legislature] at the session [4][thereof] next following and shall be liable to be modified or rescinded by a resolution [5][in which both Chambers concur] and such rule shall, after notification in the [6][*Official Gazette*], be deemed to have been modified or rescinded accordingly :

Provided that when, in the opinion of [7][the Provincial Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, [7][the Provincial Government] may, by notification in the [6][*Official Gazette*], declare that the modification or rescission shall have no effect and thereupon the rules shall remain in force as if it had not been modified or rescinded.

By-laws.

109. (*1*) The district local board may, with the previous sanction of the Commissioner, make by-laws generally for the carrying out of the purposes of this Act.

(*2*) Without prejudice to the generality of the foregoing provision, the district local board may make by-laws—

(*a*) under section 19, prescribing the time and place of the sittings and regulating the procedure at meetings of a panchayat, and fixing a quorum ;

(*b*) under section 20, prescribing the powers and duties of a sarpanch which may be exercised and performed by a deputy sarpanch ;

(*c*) under section 26—

(*i*) for the purification and protection from pollution of all sources of water used for drinking purposes ;

(*ii*) for the prohibition of the removal or use for drinking purposes of any water from any stream, tank, well or other source, where such removal or use causes, or is likely to cause, disease or injury to health, and the prevention of such removal or use by the filling in or covering over of such tank or well, or by any other method which may be considered advisable ;

(*iii*) for the prohibition of the deposit or storage of manure, refuse or other offensive matter in a manner or in places prejudicial to the public health, comfort or convenience ;

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[1] This clause was inserted by Bom. 4 of 1949, s. 6.

[2] Clause (*s*) was inserted by Bom. 18 of 1939, s. 47 (*h*).

[3] The words " before each of the Chambers of the Provincial Legislature " were substituted for the words " upon the table of the Bombay Legislative Council " by the Adaptation of Indian Laws Order in Council.

[4] The word " thereof " was substituted for the words " of the said Council ", *ibid.*

[5] The words " in which both Chambers concur " were substituted for the words " of the said Council ", *ibid.*

[6] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* ", *ibid.*

[7] The words " the Provincial Government " were substituted for the word " Government ", *ibid.*

(*iv*) for the regulation of offensive callings or trades;

(*v*) for the disposal of corpses by burning or burial;

(*vi*) for the excavation of earth and the filling up of excavations and depressions injurious to health or offensive to the neighbourhood;

(*vii*) for the removal of noxious vegetation;

(*viii*) for the repair and removal of dangerous or ruinous buildings;

(*ix*) for the prevention of the erectionof buildings wihout adequate provisions for ventilation, or the laying out and location of streets;

(*x*) for the control of fairs and bazars, and the regulation of markets, slaughter-houses and cart-stands;

(*xi*) for the inspection and destruction of unfit food and drink exposed for sale; and

(*xii*) for the general regulation of sanitation and conservancy;

(*d*) under section 28, for the supervision of labourers employed by local boards, and of repairs to dharamsalas, the management and maintenance of cattle-pounds, execution of works entrusted by the district local board, distribution of irrigation water and performance of other duties assigned by [1][the Provincial Government].

(*3*) Any by-law made under the foregoing sub-sections may provide that a contravention thereof shall be punishable—

(*a*) with a fine, which may extend to Rs. 10, or

(*b*) in the case of a continuing contravention, with a fine, which may extend to Re. 1 per day after conviction for the first contravention during the period within which such contravention continues.

CHAPTER XIII.

MISCELLANEOUS.

Liability of members for loss, waste or misapplication.

110. (*1*) Every member of a panchayát shall be personally liable for the loss, waste or misapplication of any money or other property of the panchayat, to which he has been a party, or which has been caused or facilitated by his misconduct or gross neglect of his duty as a member.

(*2*) If, after giving the member concerned a sufficient opportunity for showing cause to the contrary, the Collector is satisfied that the loss, waste or misapplication of any money or other property of the panchayat is a direct consequence of misconduct or gross neglect on his part, the Collector [2][shall], by order in writing direct such member to pay to the panchayat before a fixed date, the amount required to reimburse it for such loss, waste or misapplication.

(*3*) If the amount is not so paid the Collector shall recover it as an arrear of land revenue and credit it to the village fund.

[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] The word "shall" was substituted for the word "may" by Bom. 18 of 1939, s. 48 (*1*).

(*4*) The decision of the Collector shall be [1][subject to an appeal to the Commissioner] as to the liability of a member under sub-section (*2*) and as to the amount to be recovered from him.

Bar of action against panchayats, [2][*nyaya panchayats*] etc., and previous notice before institution.

111. (*1*) No action shall lie against any member, officer, servant or agent of a panchayat or a [2][*nyaya panchayat*] acting under its direction, in respect of any thing done in good faith under this Act or any rule or by-law.

(*2*) No action shall be brought against any panchayat or [2][*nyaya panhayat*] or any member, officer, servant or agent of such panchayat or [2][*nyaya panchayat*] acting under its direction for anything done or purporting to have been done under this Act, until the expiration of three months next after notice in writing has been left or delivered at the office of the panchayat or [2][*nyaya panchayat*] and also at the residence of the member, officer, servant or agent thereof against whom the action is intended to be brought. The notice shall state the cause of action, the nature of the relief sought, the amount of compensation claimed and the name and place of abode of the person, who intends to bring the action.

(*3*) Every such action shall be commenced within six months after the accrual of the cause of action and not afterwards.

(*4*) If any panchayat or [2][*nyaya panchayat*] or person to whom a notice under sub-section (*2*) is given shall, before an action is brought, tender sufficient amends to the plaintiff and pay into court the amount so tendered, the plaintiff shall not recover more than the amount so tendered. The plaintiff shall also pay all costs incurred by the defendant after such tender.

Delegation of powers.

112. (*1*) [3][The Provincial Government] may, by notification in the [4][*Official Gazette*], authorise the Commissioner or any officer [5][including an officer] specially empowered under sub-section (*3*) of section 95 to exercise in respect of panchayats [6]* * * any of the powers which may be exercised by [3][the Provincial Government] under this Act [7][except the powers in respect of the [2][*nyaya panchayat*] under Chapter VI].

(*2*) [3][The Provincial Government] may also, by notification in the [4][*Official Gazette*], authorise any person to exercise in respect of panchayats any of the powers conferred on a district local board under the provisions of this Act, when such district local board shall have been dissolved or superseded.

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[1] These words were substituted for the word "final", by Bom. 18 of 1939, s. 48 (*2*).

[2] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[3] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[5] These words were inserted by Bom. 18 of 1939, s. 49 (*1*) (*a*).

[6] The words "and village benches" were deleted, *ibid.*, s. 49 (*1*) (*b*).

[7] These words were inserted, *ibid.*, s. 49 (*1*) (*c*).

(*3*) Subject to rules made in this behalf, the [1][District Court] may delegate to a Subordinate Judge the powers exercisable by [2][the District Court in regard to suits under this Act] in respect of a [3][*nyaya panchayat*] in a village within the jurisdiction of the said Subordinate Judge.

[4][(*4*) Subject to rules made in this behalf, the District Magistrate may delegate to a Magistrate of the First Class exercising appellate jurisdiction under section 407 of the Criminal Procedure Code, 1898, the powers exercisable by him in regard to cases under this Act in respect of a [3][*nyaya panchayat*] in a village within the said jurisdiction of the said Magistrate. V of 1898.

(*5*) Subject to the general or special orders of the Provincial Government the Collector may delegate to an officer not below the rank of an Assistant or Deputy Collector powers [5]* * exercisable by the Collector under this Act.]

Local inquiry and reports by panchayat.

113. It shall be the duty of every panchayat to inquire and report in any of the following cases :—

(*a*) any case where a magistrate has directed that a previous local investigation be made by a panchayat under section 202 of the Code of Criminal Procedure, 1898, and the words "such other person" in sub-section (*1*) of the said section shall be deemed to include a panchayat; V of 1898.

(*b*) any case in which a magistrate making an inquiry under section 488 of the Code of Criminal Procedure, 1898, may require from the panchayat in whose village either the wife or child for whose maintenance the application is made or the husband or parent respectively of such wife or child resides, a report as to the amount of maintenance which, having regard to the circumstances of the parties, should be payable and such report shall be evidence in such inquiry : V of 1898.

Provided that no member of the panchayat shall be required to attend as a witness touching any matter on which the report is itself evidence, but the magistrate, may in his discretion, call for a further report.

Members, etc., of panchayats or [1][*nyaya panchayats*] to be public servants.

114. Every member of a panchayat or [3][*nyaya panchayat*] and every officer and servant maintained by or employed under a panchayat or [3][*nyaya panchayat*] shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

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[1] These words were substituted for the words "District Judge" by Bom. 18 of 1939, s. 49 (*2*).

[2] These words were substituted for the words, figures and brackets, "the District Judge in regard to suits under sub-section (*1*) of section 87.", *ibid.*

[3] These words were substituted for "village bench" by Bom. 60 of 1947, s. 25.

[4] Sub-sections (*4*) and (*5*) were substituted for the original sub-section (*4*), by Bom. 18 of 1939 s. 49 (*3*).

[5] The words and figure "other than the powers under section 4" were deleted by Bom. 2 of 1945, s. 8, and with Bom. 60 of 1947, s. 2.

Bom. IX of 1920.

115. (1) The Bombay Village Panchayats Act, 1920, is hereby repealed : Provided that— Repeal and savings.

(*a*) such repeal shall not affect the liability of any person to pay any sum due from him under the said Act or the validity or invalidity of anything already done thereunder ;

Bom. IX of 1920.

(*b*) all panchayats established under the Bombay Village Panchayats Act, 1920, and existing immediately before the coming into force of this Act shall be deemed to have been established under this Act ;

and the rights and liabilities of any such panchayats shall be vesting in and attached to the panchayat so deemed to have been established ;

and any appointment, notification, notice, tax, order, permission, rule or by-law made, issued or imposed in respect of any such panchayat under the Act so repealed shall, so far as is not inconsistent with the provisions of this Act, be deemed to have been made, issued or imposed under the provisions of this Act, in respect of the panchayats so deemed to have been established under this Act unless and until superseded by any appointment, notification, notice, tax, order, permission, rule or by-law made, issued or imposed under this Act.

(*2*) During such time as this Act and the rules and by-laws shall be in operation in any village, the enactments mentioned in the Schedule shall, to the extent specified in the third column of the Schedule, cease to have any operation in the said village.

SCHEDULE.

(*See* section *115*)

No. and year of enactment.	Subject or Title.	Extent of repeal.
Bombay Act VII of 1867	.. The Bombay District Police Act, 1867.	Sections 33 and 34.